

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
vs.	)	PCB No.
	)	(Enforcement)
SOUTHERN ILLINOIS REGIONAL	)	
LANDFILL, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

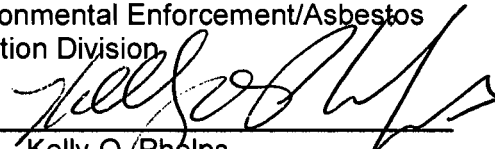
PLEASE TAKE NOTICE that on May 15, 2013, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois


MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
Kelly O. Phelps  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: May 15, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that I did on May 15, 2013, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the person listed on the Service List.

  
\_\_\_\_\_  
Kelly O. Phelps  
Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

Southern Illinois Regional  
Landfill, Inc.  
c/o Mr. Russel Eggert  
Lathrop & Gage, LLP  
100 North Riverside Plaza, Suite 2100  
Chicago, IL 60606

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
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<b>Complainant,</b>	)	
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<b>vs.</b>	)	<b>PCB No.</b>
	)	<b>(Enforcement)</b>
<b>SOUTHERN ILLINOIS REGIONAL</b>	)	
<b>LANDFILL, INC.,</b>	)	
<b>an Illinois corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2010), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2010). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlement are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

Kelly O. Phelps  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: May 15, 2013

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF )  
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 Complainant, )  
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 v. )  
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 SOUTHERN ILLINOIS REGIONAL )  
 LANDFILL, INC., )  
 (an Illinois corporation), )  
 )  
 Respondent. )

PCB NO.  
(Enforcement)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, SOUTHERN ILLINOIS REGIONAL LANDFILL, INC. ("SIRLI) as follows:

**COUNT I**

**AIR POLLUTION**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent SIRLI is an Illinois corporation properly registered with the Secretary of State. Respondent owns and operates a non-hazardous waste landfill located at 1540 Landfill Road, De Soto, IL which is the subject of this Complaint.

5. Respondent operates its De Soto landfill, accepting non-hazardous waste for disposal. Respondent is required to comply with all of the terms and conditions of their non-hazardous waste landfill Permit No. 1994-176-LF, which was issued to Respondent by the Illinois EPA.

6. On December 17, 2010, Respondent accepted approximately 4,400 gallons of liquid wastewater for solidification and disposal. The wastewater was transported to the landfill by Illini Environmental, Inc. ("Illini") and was manifested as transported from Tri-Rinse, Inc. of St. Louis, MO.

7. On December 17, 2010, Respondent mixed the wastewater with bottom ash in solidification containers to prepare the waste water for disposal in their landfill.

8. Respondent's mixing the wastewater with the bottom ash caused gaseous matter with an intense pungent odor to discharge into the atmosphere of the surrounding community, resulting in numerous 911 citizen complaints to authorities, at least five people being taken to the Carbondale hospital for eye, nose, and throat irritation, persons in the surrounding community voluntarily evacuating their property, and the closure of Highway 149, south of Respondent's landfill. The afore-mentioned resulting incidents were sufficient in quantity and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life and property.

9. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), prohibits persons from causing, threatening or allowing discharge or emission of any contaminant into the environment that

causes or tends to cause air pollution and further prohibits violations of regulations or standards adopted by the Board under the Act.

10. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), defines contaminant as follows:

“Contaminant” is any solid, liquid, or gaseous matter, any *odor*, or any form of energy, from whatever source.

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), defines air pollution as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property

12. On December 17, 2010, Respondent accepted the wastewater from Illini for disposal without knowing the chemical composition or analytical characteristics of the wastewater, in violation of regulations adopted by the Board under the Act. Respondent then mixed the wastewater with bottom ash for solidification, causing, threatening, and allowing the discharge or emission of an odoriferous contaminant or contaminants into the environment in Illinois so as to cause or tend to cause air pollution.

13. By accepting wastewater with unknown chemical composition and unknown analytical characteristics for disposal, in violation of regulations adopted by the Board under the Act and causing, threatening, and allowing the discharge or emission of the odoriferous contaminant or contaminants into the environment in Illinois so as to cause or tend to cause air pollution, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:



- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

## **COUNT II**

### **PERMIT AND OPERATIONS VIOLATIONS**

- 1-8. Complainant realleges and incorporates by reference herein Paragraphs 1 through 8 of Count I as Paragraphs 1 through 8 of this Count II.
- 9. On December 20, 21, and 22, 2010, Illinois EPA Inspector Sheila Williams met with Respondent's General Manager Gary Pearson at the Desoto landfill. On those dates Ms. Williams reviewed Respondent's waste management records and manifests which documented:
  - a. The transporter Illini had been Respondent's client for approximately five to six years;
  - b. Illini had two Special Waste Profiles on file with the Respondent. The waste Respondent accepted on the date of the incident was manifested with Special Waste Profile No. 3223Y98545. Respondent had accepted waste manifested with this profile since June of 2008;

- c. Special Waste Profile No. 3223Y98545 had been recertified on July 12, 2010, and the supporting documentation for the waste's profile included Material Safety Data Sheets ("MSDS") for waste corresponding to agrichemical rinse water received from Tri-Rinse, Inc. and MSDS for wastes from Vi-Jon Laboratories, Inc.;
- d. Manifests pertaining to 2009 and 2010 transport of Special Waste Profile No. 3223Y98545 from Illini to Respondent's De Soto landfill showed Illini as the generator and the transporter of the waste, however, multiple manifests had the names of business entities hand written in the Instructions and Additional Information section of the manifests, indicating the waste came from the denoted business entities;
- e. None of the business entities annotated in the afore-mentioned manifests had supporting analytical or MSDS waste information accompanying Illini's Special Waste Profile No. 3223Y98545 recertification; and
- f. During 2009 and through 2010 Respondent improperly accepted, treated, and disposed of uncharacterized liquid waste transported by Illini from business entities not associated with Special Waste Profile No. 3223Y98545; nevertheless, the uncharacterized wastes were manifested with Special Waste Profile No. 3223Y98545.

10. Section 21 of the Act, 415 ILCS 5/21, states in pertinent part:

Prohibited acts. No person shall:

\* \* \*

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

- (1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, . . . ;
- (2) in violation of any regulations or standards adopted by the Board under this Act;

\* \* \*

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

\* \* \*

(o) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

\* \* \*

(7) acceptance of wastes without necessary permits;

\* \* \*

11. Section 811.403 of the Board's regulations, 35 Ill. Admin. Code 811.403, states in pertinent part:

a) Each special waste accepted for disposal at a permitted solid waste management facility shall be accompanied by a manifest containing the following information, unless such special waste is disposed at an onsite facility and exempted, in accordance with 35 Ill. Adm. Code 809.211, from the manifest requirement:

\* \* \*

2) When and where the special waste was generated;

12. Section 811.404(a) of the Board's regulations 35 Ill. Admin. Code 811.404(a), states in pertinent part:

a) Each special waste disposed of at a facility (including special wastes generated at the facility) shall be accompanied by a special waste profile identification sheet, from the waste generator, that certifies the following:

- 1) The generator's name and address;
- 2) The transporter's name and telephone number;

- 3) The name of waste;
- 4) The process generating the waste;
- 5) Physical characteristics of waste (e.g., color, odor, solid or liquid, flash point);
- 6) The chemical composition of the waste;
- 7) The metals content of the waste;
- 8) Hazardous characteristics (including identification of wastes deemed hazardous by the United States Environmental Protection Agency or the state);
- 9) Presence of polychlorinated biphenyls (PCB)s or 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCDD); and
- 10) Any other information, such as the result of any test carried out in accordance with Section 811.202, that can be used to determine:
  - A) Whether the special waste is regulated as a hazardous waste, as defined at 35 Ill. Adm. Code 721;
  - B) Whether the special waste is of a type that is permitted for or has been classified, in accordance with 35 Ill. Adm. Code 809, for storage, treatment, or disposal at the facility; and
  - C) Whether the method of storage, treatment, or disposal, using the methods available at the facility, is appropriate for the waste.

13. The terms of Respondent's non-hazardous waste Permit No. 1994-176-LF include:

*Condition XI, A, 1, a:* The permittee is authorized to accept non-hazardous special wastes, i.e. industrial process waste or pollution control waste, when the waste is analyzed in accordance with the requirements of the permit & complies with the acceptance criteria in the approved waste analysis plan, (p. 45).

*Condition XI, A, 2:* The permittee shall obtain a completed Special Waste Preacceptance from (refer to Mod. #6) & a preacceptance analysis from each generator for each waste to be accepted, (p. 45).

*Condition XI, B, 3:* Only non-hazardous wastes as defined in 35 IAC 722.111 may be received for treatment at this facility, (p. 51).

14. Respondent accepted improperly manifested waste from Illini in 2009 and 2010 that was not analyzed in accordance with the requirements of its permit and did not comply with acceptance criteria in its approved analysis plan.

15. By accepting improperly manifested waste from Illini in 2009 and 2010 that was not analyzed in accordance with the requirements of its permit and failing to comply with acceptance criteria in its approved analysis plan, Respondent violated Condition XI, A, 1, a, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

16. Respondent failed to obtain a completed Special Waste Preacceptance and preacceptance analysis for wastes manifested in 2009 and 2010 by Illini.

17. By failing to obtain a completed Special Waste Preacceptance and preacceptance analysis for wastes manifested in 2009 and 2010 by Illini, Respondent violated Condition XI, A, 2, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

18. Respondent treated waste manifested by Illini in 2009 and 2010 that had not undergone a hazardous waste determination required by Section 722.111 of the Board's regulations, 35 Ill. Admin. Code 722.111.

19. By treating waste manifested by Illini in 2009 and 2010 that had not undergone a hazardous waste determination required by Section 722.111 of the Board's regulations, 35 Ill. Admin. Code 722.111, Respondent violated Condition XI, B, 3, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

20. Respondent accepted improperly manifested waste from Illini in 2009 and 2010. The manifests did not include when and where the special waste was generated.

21. By accepting improperly manifested waste from Illini in 2009 and 2010, with manifests that did not include when and where the special waste was generated, Respondent violated Section 811.403 of the Board's regulations, 35 Ill. Admin. Code 811.403.

22. Respondent accepted improperly manifested waste from Illini in 2009 and 2010. The manifests did not include special waste profiles and lacked required information.

23. By accepting improperly manifested waste from Illini in 2009 and 2010, with manifests that did not include special waste profiles and lacked required information, Respondent violated Section 811.404(a) of the Board's regulations, 35 Ill. Admin. Code 811.404(a).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4) (2010), impose a civil penalty of five hundred dollars (\$500) for each violation of Section 21(o) of the Act, 415 ILCS 5/21(o) (2010);

- F. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), awarding to Complainant its costs and reasonable attorney's fees; and
- G. Granting such other relief as the Board may deem appropriate.

**COUNT III**

**ANNUAL REPORTING VIOLATIONS**

- 1-8. Complainant realleges and incorporates by reference herein Paragraphs 1 through 8 of Count I as Paragraphs 1 through 8 of this Count III.
- 9. Complainant realleges and incorporates by reference herein Paragraph 9 of Count II as Paragraph 9 of this Count III.
- 10. Respondent submitted its Illinois Facility Nonhazardous Special Waste 2009 Annual Report to the Illinois EPA.
- 11. Section 21(o)(11) of the Act, 415 ILCS 5/21(2010), states in pertinent part:  
Prohibited acts. No person shall:

\* \* \*

(o) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

\* \* \*

(11) failure to submit reports required by permits or Board regulations;

- 12. Section 22.01 of the Act, 415 ILCS 5/22.01(2010), states in pertinent part:  
Commencing February 1, 1992, and annually thereafter, facilities accepting nonhazardous special waste shall file a report with the Agency, specifying the quantities and disposition of nonhazardous special waste accepted for treatment, storage or disposal during the previous calendar year.

13. Section 809.501(j) of the Board's regulations, 35 Ill. Admin. Code 809.501(j) states in pertinent part:

j) Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k) of this Section and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a nonhazardous special waste transporter on or after January 1, 1991.

14. Section 809.501(k) of the Board's regulations, 35 Ill. Admin. Code 809.501(k), states in pertinent part:

k) Every annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter pursuant to subsection (j) of this Section shall include the following information:

- 1) The IEPA identification number, name and address of the facility;
- 2) The period (calendar year) covered by the report;
- 3) The IEPA identification number, name and address of each nonhazardous special waste generator from which the facility received a nonhazardous special waste during the period;
- 4) A description and the total quantity of each nonhazardous special waste the facility received from off-site during the period. This information shall be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner's or operator's authorized representative.

15. Respondent's Illinois Facility Nonhazardous Special Waste 2009 Annual Report failed to include all waste generators from whom Respondent accepted wastes.



16. By failing to include all waste generators from whom Respondent accepted wastes in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Section 21(o)(11) of the Act, 415 ILCS 5/21(2010).

17. Respondent's Illinois Facility Nonhazardous Special Waste 2009 Annual Report failed to include specific quantities and dispositions for all wastes accepted by Respondent.

18. By failing to include specific quantities and dispositions for all wastes accepted in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Section 22.01 of the Act, 415 ILCS 5/22.01(2010).

19. Respondent's Illinois Facility Nonhazardous Special Waste 2009 Annual Report failed to provide all required information for special wastestreams accepted by Respondent.

20. By failing to provide all required information for special wastestreams accepted in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Sections 809.501(j) and (k) of the Board's regulations, 35 Ill. Admin. Code 809.501(j) and (k).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;
- E. Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4) (2010), impose a civil penalty of five hundred dollars (\$500) for each violation of Section 21(o) of the Act, 415 ILCS 5/21(o) (2010);
- F. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), awarding to Complainant its costs and reasonable attorney's fees; and
- G. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

OF COUNSEL:

Kelly O. Phelps ARDC # 6275697  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031  
Dated: May 14, 2013

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<b>LANDFILL, INC.</b>	)	
	)	
<b>Respondent.</b>	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and SOUTHERN ILLINOIS REGIONAL LANDFILL, INC. ("Respondent") ("Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2010), and the Board's Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

## I. STATEMENT OF FACTS

### A. Parties

1. A Complaint was filed simultaneously with this Stipulation and Proposal for Settlement on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

At all times relevant to the Complaint, Respondent owned and operated a landfill facility located at 1540 Landfill Road, DeSoto, Jackson County, Illinois ("site").

4. Respondent alleges on December 17, 2010, Respondent accepted approximately 4,400 gallons of liquid wastewater for solidification and disposal. Respondent alleges the wastewater was transported to the landfill by Illini Environmental, Inc ("Illini"), and was manifested as transported from Tri-Rinse, Inc. of St. Louis, Missouri. Respondent further alleges the Manifest that Illini presented to Respondent did not accurately or truthfully characterize the liquid wastewater and Respondent mixed the wastewater with bottom ash in solidification containers to prepare the wastewater for disposal in its landfill. Respondent alleges it had performed similar operations with properly manifested wastewater from Illini, many times without incident. The mixture produced gaseous matter having an intense pungent odor which discharged into the atmosphere resulting in the incidents described in the Complaint which were

sufficient in quantity and of such characteristics and duration as to cause air pollution as defined in the Act.

5. On December 20, 21, and 22, 2010, Illinois EPA Inspector Sheila Williams met with Respondent's General Manager Gary Pearson at the DeSoto landfill. On those dates Ms. Williams reviewed Respondent's waste management records and manifests and Ms Williams concluded:

- a. The transporter Illini had been Respondent's client for approximately five to six years;
- b. Illini had two Special Waste Profiles on file with Respondent. The waste Respondent accepted on the date of the incident was manifested with Special Waste Profile No. 3223Y98545. Respondent had accepted waste manifested with this profile since June of 2008;
- c. Special Waste Profile No. 3223Y98545 had been recertified on July 12, 2010, and the supporting documentation for the waste's profile included Material Safety Data Sheets ("MSDS") for waste corresponding to agricultural rinse water received from Tri-Rinse, Inc. and MSDS for wastes from Vi-Jon Laboratories, Inc.;
- d. Manifests pertaining to 2009 and 2010 transport of Special Waste Profile No. 3223Y98545 from Illini to Respondent's De Soto landfill showed Illini as the generator and the transporter of the waste; however, multiple manifests had the names of business entities hand written in the Instructions and Additional Information section of the manifests, indicating the waste actually came from the denoted business entities;
- e. None of the business entities annotated in the afore-mentioned manifests had supporting analytical or MSDS waste information accompanying Illini's Special Waste Profile No. 3223Y98545 recertification; and

- f. During 2009 and through 2010, Respondent improperly accepted, treated, and disposed of uncharacterized liquid waste transported by Illini from business entities not associated with Special Waste Profile No. 3223Y98545; nevertheless, the uncharacterized wastes were manifested with Special Waste Profile No. 3223Y98545.
- g. Respondent believed that pursuant to Part XI of its permit, individual waste stream permits were not required.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

**COUNT I**

By accepting wastewater with unknown chemical composition and unknown analytical characteristics for disposal, in violation of regulations adopted by the Board under the Act, and causing, threatening, and allowing the discharge or emission of the odoriferous contaminant or contaminants into the environment in Illinois so as to cause or tend to cause air pollution, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

**COUNT II**

By accepting improperly manifested waste from Illini in 2009 and 2010 that was not analyzed in accordance with the requirements of its permit and failing to comply with acceptance criteria in its approved analysis plan, Respondent violated Condition XI, A, 1, a, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

By failing to obtain a completed Special Waste Preacceptance and preacceptance analysis for wastes manifested in 2009 and 2010 by Illini, Respondent violated Condition XI, A, 2, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

By treating waste manifested by Illini in 2009 and 2010 that had not undergone a hazardous waste determination required by Section 722.111 of the Board's regulations, 35 Ill. Admin. Code 722.111, Respondent violated Condition XI, B, 3, of its non-hazardous waste Permit No. 1994-176-LF, thereby violating Sections 21(d)(1) and (2), (e), and (o)(7) of the Act.

By accepting improperly manifested waste from Illini in 2009 and 2010, with manifests that did not include when and where the special waste was generated, Respondent violated Section 811.403 of the Board's regulations, 35 Ill. Admin. Code 811.403

By accepting improperly manifested waste from Illini in 2009 and 2010, with manifests that did not include special waste profiles and lacked required information, Respondent violated Section 811.404(a) of the Board's regulations, 35 Ill. Admin. Code 811.404(a).

### **COUNT III**

By failing to include all waste generators from whom Respondent accepted wastes in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Section 21(o)(11) of the Act, 415 ILCS 5/21(2010).

By failing to include specific quantities and dispositions for all wastes accepted in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Section 22.01 of the Act, 415 ILCS 5/22.01(2010).

By failing to provide all required information for special wastestreams accepted in its Illinois Facility Nonhazardous Special Waste 2009 Annual Report, Respondent violated Sections 809.501(j) and (k) of the Board's regulations, 35 Ill. Admin. Code 809.501(j) and (k).

**C. Non-Admission of Violations**

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not admit the allegations of violations within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including any admission.

**D. Compliance Activities to Date**

Respondent has ceased doing business with Illini and has obtained a permit modification wherein liquid wastes are no longer accepted by Respondent.

Respondent has modified its scale-house procedures to require that the scale-house clerk reviews every waste manifest. If a manifest is identified as altered or in any way indicates the waste may have originated from an unapproved location, then the waste will not be accepted until the clerk can verify the origin of the waste. In all cases the clerk questions all deliverers of waste to verify waste origination from an approved waste stream.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The



Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2010).

### **III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

#### **In response to these factors, the Parties to the Stipulation state the following:**

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's alleged violations.
2. There is social and economic benefit to the facility.

3. Operation of the facility was suitable for the area in which it occurred.

4. Compliance with the Environmental Protection Act, associated regulations,

Respondent's operating permit and its terms is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board Regulations.

#### IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2012), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and

8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

**In response to these factors, the Parties to the Stipulation state as follows:**

1. Complainant has determined that Respondent failed to comply with the terms of its operating permit for calendar years 2009 and 2010 by improperly accepting waste and thereafter providing inaccurate reporting to the Illinois EPA as outlined in Section I. above. The December 17, 2010, release incident resulted therefrom. The violations began on or around October 16, 2009, and were resolved sometime in 2011. Respondent contends that it complied with the terms of its permit.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. Complainant has determined that Respondent was able to accept waste from transporters and generators without insuring the waste was generated from an authorized waste-stream, enabling respondent to accept waste for disposal unfettered by economic competition or the constraints of its permit. Respondent contends that it complied with the terms of its permit.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of twenty thousand dollars (\$20,000.00) for violations alleged in Count I of the Complaint and a penalty of eight thousand, seven hundred and thirty dollars (\$8,733.00) for violations alleged in Count II and III of the Complaint, totaling a penalty of twenty-eight thousand, seven hundred and thirty-three dollars (\$28,733.00) will serve to deter further

violations and aid in future voluntary compliance with the Act and Board regulations.

5. On October 30, 1992 Respondent entered into an interim consent order with (Case No. 93-CH-39, Franklin County) which required Respondent to implement an interim operating plan at the landfill and provide financial assurance for closure and post-closure care of the site. Subsequent inspections of Respondent's landfill revealed that daily cover depth was inadequate and deposition of refuse in unpermitted areas was ongoing. Furthermore, it was determined that Respondent had failed to post the required security bond or other financial assurance. Respondent entered into a consent order in for the subsequent matters which were brought by the People of the State of Illinois *ex rel.* the Attorney General (Case No. 94-CH-32, Franklin County). The subsequent agreed consent order (July 7, 1995) provided for Respondent's payment of a \$5,000 penalty, a \$50,000 oversight payment and ensured posting of at least \$795,648 in financial assurance. Furthermore, Respondent agreed to diligently comply with, and cease and desist from future violation of the Act (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1001 *et seq.*; 415 ILCS 5/1 *et seq.* (West 1992)). Respondent has had the following administrative citations for violations of the Act: AC 1996-048, AC 1996-049, AC 1996-057, AC 2005-048.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

## V. TERMS OF SETTLEMENT

### A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of twenty-eight thousand, seven hundred and thirty-three dollars (\$28,733.00). within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Stipulated Penalties, Interest and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau  
Illinois Attorney General's Office

500 South Second Street  
Springfield, Illinois 62706

**D. Release from Liability**

In consideration of the Respondent's payment of the twenty-eight thousand, seven hundred and thirty-three dollars (\$28,733.00) penalty, its commitment to cease and desist from future violation of the Act, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneously with this Stipulation and Proposal for Settlement. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Respondent reserves, and this stipulation is without prejudice to , all defenses with respect to all other matters not alleged in the Complaint. Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of

Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**E. Enforcement and Modification of Stipulation**

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**F. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

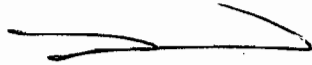
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

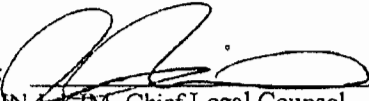
JOHN J. KIM, Chief Legal Counsel  
Illinois Environmental Protection Agency

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:

  
\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY:

  
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JOHN J. KIM, Chief Legal Counsel  
Illinois Environmental Protection Agency

DATE:


5/14/13

DATE:

4/23/13

SOUTHERN ILLINOIS REGIONAL  
LANDFILL, INC.

BY:

  
\_\_\_\_\_  
Name: W.T. Eggleston, Jr.  
Title: VP

DATE:

5/10/13