

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

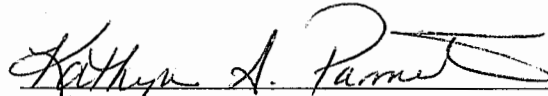
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 13-28
)	(Enforcement - Water)
ATKINSON LANDFILL CO.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To:	Kenneth Anspach, Esq.	Bradley P. Halloran
	Anspach Law Office	Hearing Officer
	111 West Washington Street	Illinois Pollution Control Board
	Suite 1625	James R. Thompson Center, Suite 11-500
	Chicago, Illinois 60602	100 W. Randolph Street
		Chicago, Illinois 60601

PLEASE TAKE NOTICE that on the 28th day of March, 2014, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, filed the attached Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, a true and correct copy of which is attached hereto and is hereby served upon you.

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

By: 

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, IL 60602
(312) 814-0608

DATE: March 28, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 13-28
)	(Enforcement - Water)
ATKINSON LANDFILL CO.,)	
an Illinois corporation,)	
)	
Respondent.)	

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) (2012), moves that the Illinois Pollution Control Board (“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) (2012). In support of this motion, Complainant states as follows:

1. On April 18, 2013, the Illinois Pollution Control Board accepted Complainant’s First Amended Complaint (the “Complaint”), which was filed 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 (2012), against the Respondent.
2. The parties have reached agreement on all outstanding issues in PCB No. 13-28.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
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)

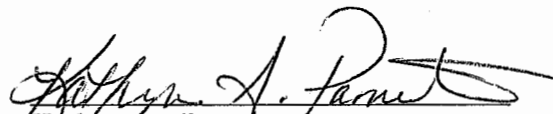
of the Act, 415 ILCS 5/31(c)(2) (2012).

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) (2012) and such other relief as the Board deems proper.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General of the State of Illinois

BY:



Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

DATE: March 28, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 13-28
)	(Enforcement - Water)
ATKINSON LANDFILL CO.,)	
an Illinois corporation,)	
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Respondent.)	

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 ATKINSON LANDFILL CO. (“Respondent”), (collectively “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.* (2012), 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. On April 18, 2013, the Illinois Pollution Control Board accepted Complainant’s First Amended Complaint (the “Complaint”), which was filed 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 (2012), 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 (2012).

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

4. At all times relevant to the Complaint, Respondent owned and operated an active municipal solid waste landfill located at 1378 Commercial Drive, Atkinson, Henry County, Illinois ("Site").

B. Allegations of Non-Compliance

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

Count I: Water Pollution (at the Village of Atkinson Sewage Treatment Plant) in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

Count II: Violation of Permit Requirements in violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2012), and Section 309.204(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.204(a).

Count III: Water Pollution (at the City of Galva Wastewater Treatment Plant) in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

Count IV: Disposing of Contaminants without a Permit in violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2012), and Section 309.204(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.204(a).

C. Non-Admission of Violations

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this matter and referenced herein.

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 (2012).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), 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. Complainant alleges that human health and the environment were threatened, and

the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.

2. There is social and economic benefit to the Site.
3. Operation of the Site was and is suitable for the area in which it is located.
4. Compliance with the statutes, regulations and Site's permit 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. The alleged violations occurred between March and June 2011. Complainant alleges that human health and the environment were threatened, and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.

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. Any economic benefit obtained by the Respondent is accounted for in the \$5,000.00 civil penalty that the Respondent has agreed to pay in this matter.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Dollars (\$5,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. In 1997, People of the State of Illinois filed a thirteen-count Complaint against Atkinson Landfill Co. in the Circuit Court of the Fourteenth Judicial Circuit, Henry County, Illinois (Case No. 97CH41), alleging land and water violations arising from the Respondent's operation of its landfill. On September 22, 2004, the Henry County Circuit Court entered a Consent Order in order to settle the case.

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

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

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Thousand Dollars (\$5,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Payment Procedures

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

C. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Site which is the subject of this Stipulation, at all reasonable

times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board regulations.

3. The Respondent shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint.

D. Release from Liability

In consideration of the Respondent's payment of the \$5,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and its completion of all activities required hereunder, 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 accepted by the Board on April 18, 2013. 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.

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. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

Michael Roubitchek
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Kenneth Anspach
Anspach Law Office
111 West Washington Street
Suite 1625
Chicago, Illinois 60602

F. Enforcement of Stipulation

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.

G. 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.

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

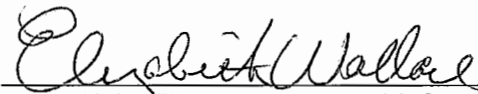
PEOPLE OF THE STATE OF ILLINOIS


ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 3/25/14

DATE: 3/20/14

RESPONDENT

ATKINSON LANDFILL CO.

BY: _____

DATE: _____

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

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: _____
ELIZABETH WALLACE, Chief
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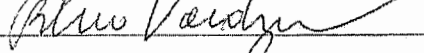
BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT

ATKINSON LANDFILL CO.

BY: 

DATE: 3/25/2014

CERTIFICATE OF SERVICE

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 28th day of March, 2014, the attached Notice of Electronic Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon (a) Kenneth Anspach by placing a true and correct copy in an envelope addressed as set forth on said Notice of Filing, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m and (b) upon Bradley Halloran *via email*.


KATHRYN A. PAMENTER