

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 15-
)	(Land – Enforcement)
BUNGE NORTH AMERICA, INC.,)	
a New York corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Katherine Hodge
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, of the People of the State of Illinois by LISA MADIGAN, Attorney General of the State of Illinois, a copy of which is herewith served upon you.

s/David Samuels
DAVID SAMUELS, Assistant Attorney General

Dated: December 23, 2015

DAVID SAMUELS, #6317414
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2015, via First Class Mail, with postage thereon fully prepaid and by depositing in a United States Post Office Box, I mailed a true and correct copy of the Notice of Filing to:

Katherine Hodge
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN, Attorney General of the
State of Illinois,

BY:s/David Samuels
David Samuels
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 15-
)	(Land—Enforcement)
BUNGE NORTH AMERICA, INC.,)	
a New York corporation,)	
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Respondent.)	
)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, BUNGE NORTH AMERICA, INC., as follows:

COUNT I
OPEN DUMPING OF WASTE

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 (2014).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2014), and charged, inter alia, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board (“Board”).
3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2014), after providing the Respondent with notice and opportunity for a meeting with the

Illinois EPA.

4. Respondent, Bunge North America, Inc., is a New York corporation authorized to transact business in Illinois.

5. Respondent owns and operates a soybean processing facility located at 203 24th Street, Cairo, Illinois ("the Facility").

6. On April 28, 2014, Illinois EPA inspectors inspected the Facility. The inspectors observed that wastes had been dumped at the Facility. The wastes included soybean meal waste, soybean oil process waste, smokestack waste, and a mixture of water, soybean oil, and soybean meal. In total, the inspectors observed an area of waste approximately 2,400 square yards in size.

7. During the April 28, 2014 inspection, Respondent's representative stated that H & H Oil, LLC ("H & H") had transported waste generated at the Facility to the areas of the Facility where it had been dumped. Respondent's representative stated that H & H had dumped one truckload of waste at the Facility and had hauled two truckloads of waste to its own facility in Camden, Tennessee.

8. On June 16, 2014, a representative of H & H confirmed to an Illinois EPA inspector that H & H was directed by Respondent to dump soybean waste at the Facility, along with two tank loads of waste water.

9. Section 21(a) of the Act, 415 ILCS 5/21(a) (2014), provides, in pertinent part:

No person shall:

(a) Cause or allow the open dumping of any waste.

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or

their legal representative, agent or assigns.

11. Section 3.305 of the Act, 415 ILCS 5/3.305 (2014), provides:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

12. Section 3.385 of the Act, 415 ILCS 5/3.385 (2014), provides:

“Refuse” means waste.

13. Section 3.535 of the Act, 415 ILCS 5/3.535 (2014), provides:

“Waste” means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities

14. Section 3.185 of the Act, 415 ILCS 5/3.185 (2014), provides:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

15. Section 3.460 of the Act, 415 ILCS 5/3.460 (2014), provides:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

16. Section 3.445 of the Act, 415 ILCS 5/3.445 (2014), provides:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land . . . without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulations.

17. Respondent, Bunge North America, Inc., is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

18. The material observed during the April 28, 2014 inspection of the Facility was discarded material, including solid, liquid, and semi-solid material resulting from industrial operations, and therefore constitutes "refuse" and "waste," as those terms are defined under Sections 3.385 and 3.535 of the Act, 415 ILCS 5/3.385 and 5/3.535 (2014).

19. The Facility is a tract of land on which waste has been deposited, dumped, and placed in such a manner that it could enter the environment, be emitted into the air, and/or be discharged into waters of the State, including ground water. The Facility is therefore a "site" in which waste has been "disposed," as those terms are defined under Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2014), making the Facility a "disposal site" as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2014).

20. Respondent does not have a permit to conduct a waste-storage or waste-disposal operation at the Facility. The Facility is therefore not a "sanitary landfill," as that term is defined under Sections 3.445 of the Act, 415 ILCS 5/3.445 (2014).

21. By causing or allowing the dumping of waste and refuse at a disposal site not permitted as a sanitary landfill, Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an Order against 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 Section 21(a) of the Act, 415 ILCS 5/21(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2014);

D. Imposing a civil penalty of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014);

E. Awarding to Complainant its costs and reasonable attorney fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014); and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
FAILURE TO CHARACTERIZE WASTE

1-13. The Complainant realleges and incorporates by reference herein paragraphs 1 through 10, paragraph 13, and paragraphs 17 through 18 of Count I as paragraphs 1 through 13 of this Count II.

14. Pursuant to authority granted under the Act, the Board has promulgated regulations regulating the disposal of solid waste, codified at 35 Ill. Adm. Code, Subchapter i (“Waste Disposal Regulations”).

15. Section 808.121(a) of the Board’s Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides:

Each person who generates waste shall determine whether the waste is a special waste.

16. Section 808.110 of the Board’s Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, provides, in pertinent part:

“Special waste” means . . . any industrial process waste or pollution control waste which has not been declassified pursuant to [35 Ill. Adm. Code] 808.245.

17. Prior to the Illinois EPA’s April 28, 2014 inspection, Respondent did not

determine whether the wastes generated and dumped at the Facility were special waste.

18. By generating waste and failing to determine whether the waste was special waste prior to the Illinois EPA's April 28, 2014 inspection, Respondent has violated Section 808.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an Order against 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 Section 808.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), and Section 21(a) of the Act, 415 ILCS 5/21(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Section 808.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a);

D. Imposing a civil penalty of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014);

E. Awarding to Complainant its costs and reasonable attorney fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014); and

F. Granting such other relief as the Board may deem appropriate.

COUNT III
FAILURE TO PREPARE AND DELIVER A SHIPPING MANIFEST

1-14. The Complainant realleges and incorporates by reference herein paragraphs 1

through 10, paragraph 13, paragraphs 17 and 18 of Count I, and paragraph 15 of Count II as paragraphs 1 through 14 of this Count III.

15. Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122, provides, in pertinent part:

Except as otherwise provided by [35 Ill. Adm. Code] 808.121(b), the generator of any special waste shall prepare a manifest . . . prior to shipment.

16. Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), provides, in pertinent part:

No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest

17. Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301, provides, in pertinent part:

No person may deliver any special waste generated within Illinois . . . unless that person concurrently delivers a manifest

18. Section 809.103 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.103, provides, in pertinent part:

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means

* * *

"Special waste" means any of the following:

* * *

Industrial process waste or pollution control waste

19. The wastes observed at the Facility during the April 28, 2014 inspection were the byproducts of processing soy beans into oil, and therefore, "industrial process waste" as that term is used in Section 808.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, and defined in Section 809.103 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.103.

20. As industrial process waste, the waste observed at the Facility is "special waste" as that term is defined in Sections 808.110 and 809.103 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110 and 809.103.

21. Respondent did not prepare or deliver to H & H a manifest for any of the waste delivered to H & H.

22. By failing to prepare a manifest prior to shipment of special waste, Respondent violated Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122.

23. By delivering special waste to a transporter unaccompanied by a manifest, Respondent violated Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b).

24. By delivering special waste generated in Illinois to a waste transporter without concurrently delivering a manifest, Respondent violated Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301, and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an Order against 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 Sections 808.121(b), 808.122, and 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, and 809.301, and Section 21(a) of the Act, 415 ILCS 5/21(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Sections 808.121(b), 808.122, and 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, and 809.301;

D. Imposing a civil penalty of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014);

E. Awarding to Complainant its costs and reasonable attorney fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014); and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV
DELIVERY OF SPECIAL WASTE TO UNPERMITTED TRANSPORTER

1-16. The Complainant realleges and incorporates by reference herein paragraphs 1 through 10, paragraph 13, paragraph 17 and 18 of Count I, and paragraphs 16 through 18 of Count III, as paragraphs 1 through 16 of this Count IV.

16. Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), provides, in pertinent part:

No person shall deliver special waste to a transporter unless . . . the transporter has a special waste hauling permit

17. At all times relevant to this Complaint, H & H was not permitted as a special waste hauler by the Illinois EPA.

18. By delivering special waste to a transporter without a special waste hauling

permit, Respondent violated Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122(b), and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an Order against 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 Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122(b), and Section 21(a) of the Act, 415 ILCS 5/21(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122(b);

D. Imposing a civil penalty of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014);

E. Awarding to Complainant its costs and reasonable attorney fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014); and


F. Granting such other relief as the Board may deem appropriate.

Respectfully Submitted,

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

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

By:


ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

DAVID G. SAMUELS
ARDC No. 6317414
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 557-5767
dsamuels@atg.state.il.us

Dated: December 23, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 15-
)	(Enforcement)
BUNGE NORTH AMERICA, INC.,)	
a New York corporation,)	
)	
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 Bunge North America, Inc. ("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.* (2014), 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. Filed contemporaneously with this Stipulation is a Complaint 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 (2014), 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 (2014).

3. At all times relevant to the Complaint, Respondent was and is a New York corporation authorized to transact business in Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a soybean processing facility located at 203 24th Street, Cairo, Alexander County, Illinois ("Facility").

5. On April 28, 2014, Illinois EPA inspectors observed certain alleged waste materials on the ground at the Facility, including soybean meal waste, soybean oil process waste, smokestack waste, and a mixture of water, soybean oil, and soybean meal.

6. Complainant alleges that, prior to April 28, 2014, Respondent directed H & H Oil, LLC ("H & H") to dump waste generated at the Facility on the Facility grounds, and to transport additional waste to H & H's facility in Camden, Tennessee.

7. Complainant alleges that, prior to April 28, 2014, Respondent did not determine whether the wastes generated and dumped at the Facility were special waste.

8. Complainant alleges that, prior to April 28, 2014, Respondent did not prepare or deliver to H & H a manifest for any of the waste delivered to H & H.

9. Prior to April 28, 2014, H & H was not permitted as a special waste hauler by the Illinois EPA.

B. Allegations of Non-Compliance

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

Count I: Open Dumping of Waste
Section 21(a) of the Act, 415 ILCS 5/21(a) (2014)

- Count II: Failure to Characterize Waste
Section 21(a) of the Act, 415 ILCS 5/21(a) (2014)
Section 808.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)
- Count III: Failure to Prepare and Deliver a Shipping Manifest
Section 21(a) of the Act, 415 ILCS 5/21(a) (2014)
Sections 808.121(b), 808.122, and 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, and 809.301
- Count IV: Delivery of Special Waste to Unpermitted Transporter
Section 21(a) of the Act, 415 ILCS 5/21(a) (2014)
Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b)

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation and Proposal for Settlement for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and Proposal for Settlement and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint referenced above, and this Stipulation and Proposal for Settlement shall not be interpreted as including such admission.

D. Compliance Activities to Date

In June 2014, the Respondent brought the Facility into full compliance with the Act and Board regulations. The alleged waste was properly disposed of, and the Respondent has initiated additional procedures to deal with process-related wastes at the Facility.

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 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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 has alleged that Respondent violated requirements for delivery and disposal of waste, thereby threatening human health and the environment.
2. There is social and economic benefit to the facility.
3. Operation of the facility was and is suitable for the area in which it is located.
4. Requiring Respondent to dispose of special waste in conformity with the Act and Board regulations is technically practicable and economically reasonable.

5. Respondent took timely action to comply with the Act and the Board regulations, upon notification by the Illinois EPA of its alleged noncompliance.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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 alleged that Respondent failed to characterize its waste, allowed

waste to be hauled without the proper permits and manifests, and caused open dumping of waste at the Facility. The duration of the alleged violations was from at least April 28, 2014 until June 11, 2014.

2. Respondent was diligent in achieving compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its alleged noncompliance.

3. The economic benefit of any noncompliance is nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of FIFTEEN THOUSAND DOLLARS (\$15,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. The Respondent entered into a state and federal consent decree in 2007 concerning air-related issues.

6. There was no self-disclosure in this matter.

7. 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

The Respondent shall pay a civil penalty in the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. 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, 415 ILCS 5/42(g) (2014), 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

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:

David Samuels
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. 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 Respondent's facility 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.

E. Release from Liability

In consideration of the Respondent's payment of the \$15,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, 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 contemporaneously with this Stipulation. 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 (2014), or entity other than the Respondent.

F. 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

David Samuels
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

James Kropid
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

Katherine Hodge
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705

G. Enforcement and Modification 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.

H. 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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SIGNATURE BLOCK TO FOLLOW

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

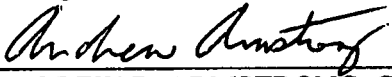
PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Director
Illinois Environmental Protection Agency

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

BY: 
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 12/18/2015

DATE: 12/16/15

RESPONDENT BUNGE NORTH AMERICA, INC.



Title: EVP

DATE: 10/31/15

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-
)	(Enforcement)
BUNGE NORTH AMERICA, INC.,)	
a New York 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 requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Filed contemporaneously with this Motion are the initial Complaint in this matter and a Stipulation and Proposal for Settlement executed between Complainant and Respondent Bunge North America, Inc.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2014), provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is no scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2014).

Respectfully Submitted,

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

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

By: /s/ David G. Samuels
DAVID G. SAMUELS (No. 6317414)
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 557-5767

Dated: December 23, 2015