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APR 11 2006

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

Lisa Madigan
ATTORNEY GENERAL

April 6, 2006

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Clean Harbors Env. Services, Inc.***
PCB No. 05-53

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
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APR 11 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 CLEAN HARBORS ENVIRONMENTAL)
 SERVICES, INC., a Massachusetts)
 corporation,)
)
 Respondent.)

PCB No. 05-53
(Enforcement)

NOTICE OF FILING

To: Clean Harbors Environmental Services, Inc.
Alicia M. Thoms
1501 Washington Street
Braintree, MA 02184

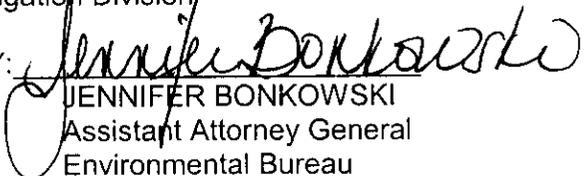
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a , MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, a copy of which is attached hereto and herewith served upon you.

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: 
JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 6, 2006

CERTIFICATE OF SERVICE

I hereby certify that I did on April 6, 2006, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: Clean Harbors Environmental Services, Inc.
Alicia M. Thoms
1501 Washington Street
Braintree, MA 02184

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794


JENNIFER BONKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

APR 11 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 CLEAN HARBORS ENVIRONMENTAL)
 SERVICES, INC., a Massachusetts)
 corporation,)
)
 Respondent.)

PCB No. 05-53
(Enforcement)

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) (2004), 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) (2004). In support of this motion, Complainant states as follows:

1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. 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) (2004).

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) (2004).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY:


JENNIFER BONKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 6, 2006

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2004).

II. AUTHORIZATION

The undersigned representatives for each party 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.

III. STATEMENT OF FACTS

A. Parties

1. On September 15, 2004, a Complaint 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(2004), 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 (2004).

3. At all times relevant to the Complaint, Respondent was and is a Massachusetts corporation registered to do business in Illinois. Clean Harbors' registered agent is CT Corporation System, 208 South LaSalle St, Suite 814, Chicago, Illinois, 60604-1101.

B. Site Description

1. At all times relevant to the Complaint, Respondent owned and operated a less than 10-day hazardous waste transfer station located at Three Rivers RV and Boat Storage in

South Roxana, Madison County, Illinois ("site" or "facility"). This hazardous waste transfer operation is exempt from permitting.

2. Clean Harbors uses a small, less than trailer-load, truck to go from business to business collecting containers of waste. The small truck returns to Three Rivers RV and Boat and unloads into a 40-foot box trailer.

3. Beginning on at least November 11, 2003, Clean Harbors also operated a nonhazardous waste transfer station at the site.

4. The Illinois EPA conducted a Compliance Evaluation Inspection of the facility on November 13, 2003. Inspectors reviewed seven manifests for waste transferred to the facility. The manifests showed that both hazardous and nonhazardous waste were being transferred from small trucks to the box trailer.

5. On November 11, 2003, one drum of nonhazardous diethylenetriamine and one drum of nonhazardous waste were transferred from a small truck to the large trailer.

6. Wastes transferred on November 12, 2003, included 12 poly fiber containers of nonhazardous water and plastic, one poly fiber container of nonhazardous waste, and two poly fiber containers of aqueous drug waste.

7. Clean Harbors parked the trailer at the site for about a week before waste was placed into the trailer on November 11, 2003. The trailer was to be moved on November 19, 2003. Therefore, nonhazardous waste was stored at the facility for at least eight days before being shipped to another Clean Harbors location.

C. Allegations of Non-Compliance

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

Count I: Beginning at least on November 11, 2003, the Defendant has conducted a nonhazardous waste-storage operation in South Roxana without the necessary permits granted by the Illinois EPA, and in violation of Sections 807.201 and 807.202 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.201 and 807.202.

By conducting a waste-storage operation at the facility without a permit granted by the Illinois EPA, or in violation of any regulations or standards adopted by the Board, the Defendant has violated Section 21(d) of the Act, 415 ILCS 21(d) (2004).

By storing waste at a site that does not meet the requirements of the Act and of the standards and regulations promulgated thereunder, the Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

D. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section III.C herein.

E. Compliance Activities to Date

The facility has discontinued transferring nonhazardous waste.

IV. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. 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.

1. No change in ownership, corporate status or operator of the facility shall in any way alter

the responsibilities of the Respondent under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation.

2. In the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation a condition of any such sale or transfer and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

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, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), 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 state the following:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as unpermitted waste storage violations. As to the degree of injury, although harm did not result, Clean Harbors is located across a farm field from the South Roxana grade school and the potential for harm was therefore moderate;
2. The parties agree that Respondent's facility is of social and economic benefit;
3. Respondent's facility is located at Three Rivers RV and Boat Storage in South Roxana, Madison County, Illinois. This facility is located across a farm field from the South Roxana Grade School;
4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable; and
5. Respondent implemented measures subsequent to the alleged violations that are the subject of the Complaint in this matter in order to operate in compliance with the Act and the associated regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), 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; and
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.

In response to these factors, the parties state as follows:

1. The violations occurred in November 2003.
2. In response to the notice of noncompliance issued by the Illinois EPA, the Respondent discontinued the transfer of nonhazardous waste in order to comply with the Act.
3. The Respondent realized a minimal economic benefit from noncompliance by

accepting nonhazardous waste without complying with the permitting and siting requirements.

4. Complainant has determined, in this instance, that a monetary penalty of twelve thousand dollars (\$12,000.00) will serve to deter further violations and aid in future voluntary enforcement of the Act and applicable regulations.

5. The Respondent has no prior violations.

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

7. The settlement of this matter includes a supplemental environmental project ("SEP") in addition to the monetary penalty.

In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Respondent shall perform the following SEP. The parties agree that this SEP consists of hazardous waste disposal and related collection and transportation services for fair market value retail price up to eighteen thousand (\$18,000.00) dollars over the next two years following the date of this Stipulation. Respondent must demonstrate proof of fair market value to the Illinois EPA.

Project Description

The State of Illinois is often responsible for the proper cleanup and disposal of abandoned drums - either at remote locations or inside former warehouses, for example. When the rightful owners of the waste cannot be discerned or made accountable, the State bears the burden and costs to ensure proper cleanup and disposal of illegally discarded wastes. Clean Harbors has the resources to provide waste identification, packaging, profiling, transportation and disposal of such wastes.

Expected Environmental Benefit

The People of Illinois will benefit by the proper cleanup, transportation and disposal of abandoned waste, without bearing the cost.

Regions of Illinois

Southwest region or statewide, based on the needs of the State.

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of twelve thousand dollars (\$12,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN) shall appear on the check. A copy of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

Peggy Poitevint
Environmental Bureau
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62702

Melanie Jarvis
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Clean Harbors Environmental Services, Inc.
Alicia M. Thoms
1501 Washington Street
Braintree, MA 02184

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in

consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondent hereby agrees that 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 promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the twelve thousand dollar (\$12,000.00) penalty and any specified costs and accrued interest and completion of the SEP required hereunder, to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for 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 on September 15, 2004. 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 or the Illinois EPA 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. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents 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 carrying out inspections. 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.

F. Enforcement of Board Order

- 1. Upon the entry of the Board's Order approving and accepting this Stipulation and

Proposal for Settlement, that Order is a binding and enforceable order of the Illinois Pollution Control Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

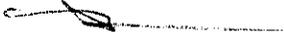
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

DATE: 3/14/06

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

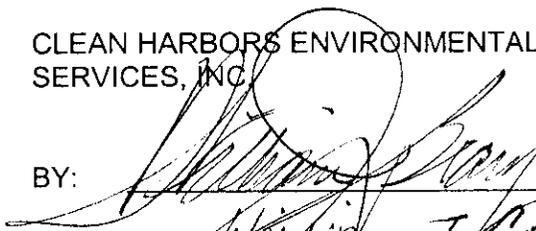
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

DATE: 11/1/06

BY: 
ROBERT A. MESSINA
Chief Legal Counsel
Division of Legal Counsel

CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC.

DATE: _____

BY: 
Name: WILLIAM J. GEARY
Title: EXECUTIVE VICE PRESIDENT
& GENERAL COUNSEL
ASSISTANT CLERK