

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
vs.	)	PCB No.
	)	(Enforcement)
WASTE MANAGEMENT OF ILLINOIS,	)	
INC., an Illinois corporation, d/b/a	)	
COTTONWOOD HILLS LANDFILL,	)	
	)	
Respondent.	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

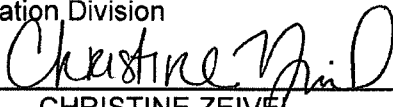
PLEASE TAKE NOTICE that on September 24, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon 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:   
CHRISTINE ZEIVEL  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: September 24, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I did on September 24, 2010, 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 persons listed on the Service List.

  
Christine Zeivel  
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Waste Management of Illinois, Inc.  
c/o Dennis M. Wilt  
Vice President & General Counsel  
Midwest Group  
720 E. Butterfield Road  
Lombard, IL 60148

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
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Complainant,	)	
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INC., an Illinois corporation, d/b/a	)	
COTTONWOOD HILLS LANDFILL,	)	
	)	
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) (2008), 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) (2008). In support of this motion, Complainant states as follows:

1. On August 28, 2009, a Complaint was filed 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) (2008).

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) (2008).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY:   
Christine Zeivel  
Environmental Bureau  
Assistant Attorney General

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Springfield, Illinois 62706  
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 Complainant, )  
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 v. ) PCB No.  
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 WASTE MANAGEMENT OF ILLINOIS, INC., )  
 an Illinois corporation, )  
 d/b/a COTTONWOOD HILLS LANDFILL, )  
 )  
 Respondent. )

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, WASTE MANAGEMENT OF ILLINOIS, INC. d/b/a COTTONWOOD HILLS LANDFILL, as follows:

COUNT I  
FAILURE TO COLLECT AND CONTAIN LITTER

1. This Complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, the Attorney General of the State of Illinois, by her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).
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 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. Respondent, Waste Management of Illinois, Inc. ("WMII"), d/b/a Cottonwood Hills Landfill, is a foreign corporation registered to do business in this State with the Illinois Secretary of State's Office. WMII is a subsidiary of Waste Management, Inc., with corporate headquarters in Houston, Texas. Its Registered Agent is C T Corporation System, 208 S.

LaSalle St., Suite 814, Chicago, Illinois 60604.

4. The Respondent is a permitted, municipal solid waste landfill located at 10400 Hillstown Road, Marissa, St. Clair County, Illinois ("facility").

5. The Respondent's facility is designated by the Illinois EPA as site number 1630755017 and was operating pursuant to Illinois EPA approved operating permit number 1998-110-LF, last modified in 2008 with permit modification number 2008-322 (Mod. #30), at all times relevant to the Complaint.

6. At all time relevant to the Complaint, the commercial operating hours for the Respondent's facility were 5 a.m. until 4 p.m.

7. On November 13, 2008, the Illinois EPA conducted an inspection of the Respondent's facility to determine compliance with the Act, Board Regulations and facility permit conditions. The inspection began at 4:55 a.m.

8. Section 21 of the Act, 415 ILCS 5/21 (2008), provides, in relevant part, as follows:

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, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder. . . .

\*\*\*

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 regulation 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:

\*\*\*

- 5. uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

\*\*\*

- 12. failure to collect and contain litter from the site by the end of each operating day;

\*\*\*

- 9. The Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), as follows:

"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.

- 10. The Respondent's facility is a "waste disposal site" as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2008), as follows:

"Waste disposal site" is a site on which solid waste is disposed.

- 11. The Respondent's facility is a "sanitary landfill" as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2008), as follows:

"Sanitary landfill" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of [RCRA] and 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 regulation.



12. Permit Number 1998-110-LF, Mod. #30, provides, in relevant part, as follows:

\*\*\*

II.2. The operator of this solid waste facility shall not conduct the operation in a manner which results in any of the following:

\*\*\*

I. failure to collect and contain litter from the site by the end of each operating day;

\*\*\*

13. On November 13, 2008, at the start of operations, a large amount of litter and blown refuse was present along the western, northeastern and southeastern portions of the landfill.

14. On November 13, 2008, at the start of operations, litter and blown refuse was present throughout the facility — along the openface entrance road, on both sides of the litter fence line, to the side of the landfill truck tipper, and around a methane gas well head — and included carpet, plastics, waste tires and household refuse.

15. By failing to collect and contain litter from the site of a sanitary landfill by the end of each operating day, the Respondent violated Condition II.2(l) of Permit Number 1998-110-LF, Mod. #30, and Section 21(o)(12) of the Act, 415 ILCS 5/21(o)(12) (2008).

16. By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

17. By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests

that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

- 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) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT II**  
**FAILURE TO PROPERLY COVER REFUSE**

- 1. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count II.
- 12. Section 811.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.313, provides, in relevant part, as follows:

**Intermediate Cover**

- a) All waste which is not to be covered within 60 days of placement by another lift of waste or final cover . . . shall have a cover equivalent to that provided by 0.30 meter (1 foot) of compacted clean soil material.
- \* \* \*
- c) The grade and thickness of intermediate cover shall be maintained until the placement of additional wastes or the final cover. All cracks, rills, gullies and depressions shall be repaired to prevent access to the solid waste by vectors, to minimize infiltration and to prevent standing water.

- 13. Permit Number 1998-110-LF, Mod. #30, provides, in relevant part, as follows:

\*\*\*

II.2. The operator of this solid waste facility shall not conduct the operation in a manner which results in any of the following:

\*\*\*

e. uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

\*\*\*

II.7. All waste not covered within sixty days of placement with additional waste or final cover shall have an intermediate cover of compacted clean soil with a minimum thickness of one foot applied to it.

\*\*\*

14. On November 13, 2008, previously applied intermediate cover was not maintained and exposed waste was present on a landfill surface where waste had not been placed for at least sixty (60) days.

15. By operating its solid waste facility in a manner resulting in uncovered refuse remaining from the previous operating day, the Respondent violated Condition II.2(e) of Permit Number 1998-110-LF, Mod. #30, and Section 21(o)(5) of the Act, 415 ILCS 5/21(o)(5) (2008).

16. By failing to properly maintain intermediate cover over waste that was not covered by additional waste or final cover within sixty days of placement, the Respondent violated Condition II.7 of Permit Number 1998-110-LF, Mod. #30, and Section 811.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.313.

17. By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

18. By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)

(2008).

19. By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

- 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) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT III**  
**DISPOSAL OF IMPERMISSIBLE WASTES AT A SANITARY LANDFILL**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count III.

12. Section 22.22 of the Act, 415 ILCS 5/22.22 (2008), provides, in relevant part, as follows:

\*\*\*

- c. Beginning on July 1, 1990, no owner or operator of a sanitary landfill shall accept landscape waste for final disposal, except that landscape waste separated from municipal waste may be accepted by a sanitary landfill if:

1. the landfill provides and maintains for that purpose separate landscape waste composting facilities and composts all landscape waste, and
2. the composted waste is utilized . . . as part of the final vegetative cover for the landfill or for such other uses as soil conditioning material, or has received an Agency permit to use . . . landscape waste as an alternative daily cover and the landscape waste is processed at a site, other than the sanitary landfill. . . .

\*\*\*

13. Section 55 of the Act, 415 ILCS 5/55 (2008), provides, in relevant part, as follows:

\*\*\*

- b. Beginning January 1, 1995 . . . no owner or operator of a sanitary landfill shall accept any used or waste tire for final disposal; except that used or waste tires, when separated from other waste, may be accepted if:
  1. The sanitary landfill provides and maintains a means for shredding, slitting, or chopping whole tires and so treats whole tires. . . .

\*\*\*

14. Permit Number 1998-110-LF, Mod. #30, provides, in relevant part, as follows:

\*\*\*

II.10. Management of Unauthorized Waste

- a. Landscape waste found to be mixed with municipal waste will be removed the same day and transported to a facility that has an operating permit to compost and/or transfer landscape waste in accordance with the Act, Title V, Section 21.

\*\*\*

- d. Tires found to be mixed with municipal waste shall be removed and managed in accordance with 35 Ill. Adm. Code, Part 848.

\*\*\*

15. On November 13, 2008, landscape waste and tires were present within the

active landfill space.

16. By accepting landscape waste for final disposal at the facility, the Respondent violated Condition II.10(a) of Permit Number 1998-110-LF, Mod. #30, and Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (2008).

17. By accepting used and/or waste tires for final disposal at the facility, the Respondent violated Condition II.10(d) of Permit Number 1998-110-LF, Modification 30, and Section 55(b)(1) of the Act, 415 ILCS 5/55(b)(1) (2008).

18. By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

19. By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

- 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) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and

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

**COUNT IV**  
**CHIEF OPERATOR SERVING MORE THAN ONE WASTE DISPOSAL SITE**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count IV.

12. Section 745.181 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 745.181, provides, in relevant part, as follows:

**Chief Operator Requirements**

\* \* \*

b) The owner or other named permittee shall designate one or more chief operators for each waste disposal site.

\* \* \*

2) One certified chief operator shall not serve in that capacity for units located at two or more waste disposal sites.

\* \* \*

13. On November 13, 2008, Mr. Joe Durako was listed as the certified Chief Operator for the Cottonwood Hills Landfill facility and the Milam Landfill facility located in East St. Louis, both of which are owned and operated by the Respondent.

14. By designating a Chief Operator that serves in that capacity at two or more waste disposal sites, the Respondent violated Section 745.181(b)(2) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 745.181(b)(2).

15. By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

16. By permitting the disposal of waste at the facility, a site that did not meet the

requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

- 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) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT V**  
**FAILURE TO CORRECTLY CAP AND LOCK GROUND WATER WELLS**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count V.

12. Section 811.318 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.318, provides, in relevant part, as follows:

**Design, Construction, and Operation of Groundwater Monitoring Systems**

\* \* \*

- d) Standards for Monitoring Well Design and Construction

\* \* \*

- 6) All wells shall be covered with vented caps and equipped with devices to protect against tampering



and damage.

\*\*\*

13. Permit Number 1998-110-LF, Mod. #30, provides, in relevant part, as follows:

\*\*\*

VIII.5. Groundwater monitoring wells shall be easily visible, labeled with Illinois EPA monitoring point designations and fitted with padlocked protective covers.

\*\*\*

14. On November 13, 2008, several ground water monitoring wells were in disrepair and were not locked. One monitoring well cap was partially open and another had been completely removed and was lying on the nearby ground.

15. By failing to keep ground water monitoring wells covered with vented caps and equipped with devices to protect against tampering and damage, such as padlocked protective covers, the Respondent violated Condition VIII.5 of Permit Number 1998-110-LF, Mod. #30 and Section 811.318(d)(6) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.318(d)(6).

16. By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

17. By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

18. By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

- 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) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT VI**  
**LOAD CHECKING VIOLATIONS**

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count VI.

12. Section 811.323 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.323, provides, in relevant part, as follows:

**Load Checking Program**

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- c) The load checking program shall consist of, at a minimum, the following components:
  - 1) Random inspections
    - A) An inspector designated by the facility shall examine at least three random loads of solid waste delivered to the landfill on a random day each week. . . . The facility shall conduct a detailed inspection of the

discharged material for any regulated hazardous or other unacceptable wastes that may be present. . . .

\*\*\*

- 2) Recording inspection results. Information and observations derived from each random inspection shall be recorded in writing and retained at the facility for at least three years. The recorded information shall include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record shall be signed by both the inspector and the driver.

13. Permit Number 1998-110-LF, Mod. #30, provides, in relevant part, as follows:

\*\*\*

- II.8. The operator shall implement a load checking program that meets the requirements of 35 Ill. Adm. Code, Section 811.323. . . . The load checker shall prepare a report describing the results of each inspection. . . .

\*\*\*

14. On November 13, 2008, the Illinois EPA inspected the Respondent's load check inspection reports. Numerous load check inspection reports failed to document visual observations made by the inspectors.

15. By failing to properly record information and observations derived from each random inspection, the Respondent violated Section 811.323(c) of the Board's Regulations, 35 Ill. Adm. Code 811.323(c), and thereby violated Condition II.8 of Permit Number 1998-110-LF, Mod. #30.

16. By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

17. By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

18. By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, WMII d/b/a Cottonwood Hills Landfill:

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

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D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and

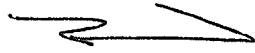
E. Granting such other relief as the Board may deem appropriate.

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

Of Counsel  
CHRISTINE M. ZEIVEL  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: September 24, 2010

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

**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>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement)</b>
<b>WASTE MANAGEMENT OF ILLINOIS, INC.,</b>	)	
<b>an Illinois corporation,</b>	)	
<b>d/b/a COTTONWOOD HILLS LANDFILL,</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 WASTE MANAGEMENT OF ILLINOIS, INC. d/b/a COTTONWOOD HILLS LANDFILL ("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.* (2008), 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 (2008), 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 (2008).

3. Respondent, Waste Management of Illinois, Inc. d/b/a Cottonwood Hills Landfill, ("WMI") is a foreign corporation registered to do business in this State with the Illinois Secretary of State's Office. WMI is a subsidiary of Waste Management, Inc., with corporate headquarters in Houston, Texas.

4. The Respondent is a permitted, municipal solid waste landfill located at 10400 Hillstown Road, Marissa, St. Clair County, Illinois ("facility").

5. The Respondent's facility is designated by the Illinois EPA as site number 1630755017 and was operating pursuant to Illinois EPA approved operating permit number 1998-110-LF, last modified in 2008 with permit modification number 2008-322 (Mod. #30), at all times relevant to the Complaint.

6. On November 13, 2008, the Illinois EPA conducted an inspection of the Respondent's facility to determine compliance with the Act, Board Regulations and facility permit conditions. The inspection began at 4:55 a.m.

7. On November 13, 2008, at the start of operations, a large amount of litter and blown refuse was present along the western, northeastern and southeastern portions of the landfill and throughout the facility — along the openface entrance road, on both sides of the litter fence line, to the side of the landfill truck tipper, and around a methane gas well head — and included carpet, plastics, waste tires and household refuse.

8. On November 13, 2008, previously applied intermediate cover was not maintained and exposed waste was present on a landfill surface where waste had not been

placed for at least sixty (60) days

9. On November 13, 2008, landscape waste and tires were present within the active landfill space.

10. On November 13, 2008, Mr. Joe Durako was listed as the Chief Operator for the Cottonwood Hills facility and the Milam Disposal facility located in East St. Louis, both of which are owned and operated by the Respondent.

11. On November 13, 2008, several ground water monitoring wells were in disrepair and were not locked. One monitoring well cap was partially open and another had been completely removed and was lying on the nearby ground.

12. On November 13, 2008, the Illinois EPA inspected the Respondent's load check inspection reports. Numerous load check inspection reports failed to document visual observations made by the inspectors.

**B. Allegations of Non-Compliance**

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

**Count I: Failure to Collect and Contain Litter**

By failing to collect and contain litter from the site of a sanitary landfill by the end of each operating day, the Respondent violated Condition II.2(l) of Permit Number 1998-110-LF, Mod. #30, and Section 21(o)(12) of the Act, 415 ILCS 5/21(o)(12) (2008).

By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).



**Count II: Failure to Properly Cover Refuse**

By operating its solid waste facility in a manner resulting in uncovered refuse remaining from the previous operating day, the Respondent violated Condition II.2(e) of Permit Number 1998-110-LF, Mod. #30, and Section 21(o)(5) of the Act, 415 ILCS 5/21(o)(5) (2008).

By failing to properly maintain intermediate cover over waste that was not covered by additional waste or final cover within sixty days of placement, the Respondent violated Condition II.7 of Permit Number 1998-110-LF, Mod. #30, and Section 811.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.313.

By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**Count III: Disposal of Impermissible Wastes at a Sanitary Landfill**

By accepting landscape waste for final disposal at the facility, the Respondent violated Condition II.10(a) of Permit Number 1998-110-LF, Mod. #30, and Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (2008).

By accepting used and/or waste tires for final disposal at the facility, the Respondent violated Condition II.10(d) of Permit Number 1998-110-LF, Modification 30, and Section 55(b)(1) of the Act, 415 ILCS 5/55(b)(1) (2008).

By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

By permitting the disposal of waste at the facility, a site that

did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**Count IV: Disposal of Impermissible Wastes at a Sanitary Landfill**

By designating a Chief Operator that serves in that capacity at two or more waste disposal sites, the Respondent violated Section 745.181(b)(2) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 745.181(b)(2).

By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**Count V: Failure to Correctly Cap and Lock Ground Water Wells**

By failing to keep ground water monitoring wells covered with vented caps and equipped with devices to protect against tampering and damage, such as padlocked protective covers, the Respondent violated Condition VIII.5 of Permit Number 1998-110-LF, Mod. #30 and Section 811.318(d)(6) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.318(d)(6).

By conducting a waste-disposal operation in violation of conditions imposed by its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

By operating a waste-disposal operation in violation of standards adopted by the Board under the Act, the Respondent violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

By permitting the disposal of waste at the facility, a site that did not meet the requirements of the Act and of the regulations and standards thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**C. Admission of Violations**

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

**D. Compliance Activities to Date**

The Respondent, WMI, has instituted several changes at the Cottonwood Hills Landfill in order to ensure future compliance at the facility. WMI has assigned a new Operations Manager with prior conduct certification to the facility, who has also been assigned the responsibility of ensuring litter control is properly conducted, and facility management has reenforced to site personnel the importance of controlling and picking blown litter. WMI will continue to train scale clerks to reject landscape waste and tires at the gate and has reiterated the importance of preventing and removing landscape waste and tires to site personnel. Facility management has further reiterated to operators that any tires in the active landfill space must be removed by the end of the working day and placed in the covered tire storage box for transport off-site to a tire recycler. Load checking operators are now instructed to complete the "Observations" section of the load check inspection reports during all random load checks. Finally, the broken monitoring well has been repaired and the locks missing from all groundwater wells have been replaced. Groundwater samplers now carry extra locks to ensure ground water wells are properly locked at all times.

**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 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2008), 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 by the Respondent's violations.
2. There is social and economic benefit to the waste disposal service provided by the Respondent.
3. Operation of the sanitary landfill is suitable for the area in which it is located.
4. Compliance with the Act and Board regulations is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act, Board Regulations and its operating permit.

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

Section 42(h) of the Act, 415 ILCS 5/42(h) (2008), 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 to the Stipulation state as follows:

1. The violations began on or before November 13, 2008, and were resolved at various times throughout the following year. The gravity of the daily cover, blown refuse, improper disposal and operating records violations were minor in their potential for harm and extent of deviation from legal and permit requirements. The groundwater well maintenance violations were moderate in their potential for harm and extent of deviation from legal and permit requirements.

2. The Respondent was diligent in coming back into compliance with the Act, Board regulations and its operating permit, once notified it of its noncompliance. The Illinois EPA conducted an inspection of the Respondent's facility on December 1, 2009 and found the facility compliant with the Act, Board Regulations, and its operating permit.

3. The Respondent did not gain any economic benefit from its noncompliance.

4. Complainant has determined, based upon the specific facts of this matter and the Respondent's supplemental environmental project, as outlined in Section V.E below, that a penalty is not required to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. The Respondent has not had any previous adjudicated violations for its operation of the Cottonwood Hills Landfill.

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

7. The Respondent has agreed to undertake a supplemental environmental enforcement project providing landfill disposal space to the State of Illinois as outlined in Section V.E below.

## **V. TERMS OF SETTLEMENT**

### **A. Document Submission Procedures**

All reports, receipts and other documentation required by this Stipulation shall be sent by first class mail and delivered to:

Paul M. Purseglove, Manager  
Illinois EPA Field Operations Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name and case number shall appear on all document submissions. A copy of all submissions and any transmittal letters shall be sent to:

Christine Zeivel  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**B. Future Compliance**

1. 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.

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

**C. Release from Liability**

In consideration of the Respondent's agreement to undertake a Supplement Environmental Project at a settlement value of Twelve Thousand Dollars (\$12,000) and its commitment to cease and desist as contained in Section V.D. 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 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.

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 (2008), or entity other than the Respondent.

**D. 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.

**E. Supplemental Environmental Project**

In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is Twelve Thousand Dollars (\$12,000.00) and will offset penalties sought by the Complainant and the Illinois EPA in this matter. The Parties to the Stipulation agree that this SEP consists of waste disposal services as follows:

- a. Respondent shall provide the Complainant with a total of 1,500 tons of landfill capacity, at a gate rate of between \$31 to \$50 per ton, for the disposal of non-hazardous special waste and/or municipal solid waste at the Cottonwood Hills and Milam Landfills. Respondent agrees to make such space available to the Complainant in the amount of 750 tons at Cottonwood Hills Landfill, located at 10400 Hillstown Road, Marissa, St., Illinois, and 750 tons at Milam Landfill, located at 601 Madison Road, East St. Louis, Illinois. Without exclusion, all local and State fees must be paid by Respondent for the volumes accepted for



disposal.

b. Complainant shall notify Respondent that it intends to utilize a portion of the landfill capacity at least seven (7) business days prior to the date it will be needed for waste disposal. Respondent shall take logistics into consideration and direct Complainant to transport the waste to either the Cottonwood Hills Landfill, Milam Landfill, or a more mutually convenient landfill.

c. The Respondent and Complainant shall review the subject waste to determine acceptability of the waste into the landfill in accordance with state, federal and local rules and regulations. Upon approval by the Respondent, the Complainant may schedule shipments of waste for disposal at the designated receiving landfill.

d. Upon disposal of any SEP waste, Respondent shall prepare a gate receipt evidencing the amount of waste received and the date of receipt. Copies of all of the receipts shall be forwarded to:

Paul M. Purseglove, Manager  
Illinois EPA Field Operations Section  
1021 North Grand Ave East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

In addition, the Respondent will provide reports to the parties listed in Section V.A on a quarterly basis as to the waste weights received and waste weights remaining.

e. Complainant shall utilize the above-noted landfill capacity within three (3) years from the date of a Board Order accepting this Stipulation or on or before December 31, 2013.

f. Upon completion of the SEP, the Respondent shall submit a project

completion report, including a summary of all services, to the contact persons identified in Section V.A for review and confirmation that the SEP was performed pursuant to this Stipulation. The project completion report shall include the following certification by a responsible corporate official of the Respondent:

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted based on my inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

g. By signature on this Stipulation, the Respondent certifies that, as of the date of entry of this Order, it is not required to perform or develop the foregoing SEP by any federal, state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. The Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEP in any other enforcement action.

h. Any public statement, oral or written, in print, film or other media, made by the Respondent making reference to any SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder."

**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

DOUGLAS P. SCOTT, Director  
Illinois Environmental Protection Agency

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

BY:

  
\_\_\_\_\_

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY:

  
\_\_\_\_\_

JOHN J. KIM  
Chief Legal Counsel

DATE:

9/24/10

DATE:

9/20/10

WASTE MANAGEMENT OF ILLINOIS,  
INC., a subsidiary of WASTE  
MANAGEMENT, INC.

BY:

  
\_\_\_\_\_

Name: Dennis M. Wilt

Title: Vice President

DATE:

9/8/10