

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 RELIABLE MATERIALS LYONS, LLC, an)
 Illinois limited liability company, GSG)
 CONSULTANTS, INC., an Illinois corporation,)
 O.C.A. CONSTRUCTION, INC., an Illinois)
 corporation, SPEEDY GONZALEZ)
 LANDSCAPING, INC., an Illinois corporation,)
 PUBLIC BUILDING COMMISSION OF)
 CHICAGO, an Illinois municipal corporation,)
 BOARD OF EDUCATION OF THE CITY OF)
 CHICAGO, a body politic and corporate,)
)
 Respondents.)

PCB No. _____
 (Enforcement - Land)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that today, September 26, 2011, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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

BY:


STEPHEN J. SYLVESTER

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Environmental Bureau

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Date: September 26, 2011

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PEOPLE OF THE STATE OF ILLINOIS)
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 RELIABLE MATERIALS LYONS, LLC, an)
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 CHICAGO, an Illinois municipal corporation,)
 BOARD OF EDUCATION OF THE CITY OF)
 CHICAGO, a body politic and corporate,)
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 Respondents.)

PCB No. _____
 (Enforcement - Land)

COMPLAINT

Complainant, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondents, RELIABLE MATERIALS LYONS, LLC, an Illinois limited liability company, GSG CONSULTANTS, INC., an Illinois corporation, O.C.A. CONSTRUCTION, INC., an Illinois corporation, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, PUBLIC BUILDING COMMISSION OF CHICAGO, an Illinois municipal corporation, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate, as follows:

NATURE OF THE ACTION

1. This is an action for civil penalties and affirmative relief brought pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

Complainant seeks civil penalties and affirmative relief for the illegal disposal of waste taken from a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County, Illinois, and disposed at a facility located at 4401 First Avenue, Lyons, Cook County, Illinois.

THE PARTIES

2. The Attorney General is the chief legal officer of the State of Illinois having the powers and duties prescribed by law. Ill. Const. art. V, § 15.

3. The Illinois Environmental Protection Agency ("Illinois EPA") is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010), and is charged *inter alia*, with the duty of enforcing the Act.

4. The Public Building Commission of Chicago ("PBC") is an Illinois municipal corporation, created pursuant to Section 2 of the Public Building Commission Act, 50 ILCS 20/2 (2010).

5. The PBC is charged with the responsibility of managing all public construction projects within the City of Chicago and Cook County governmental units.

6. At all times relevant to this Complaint, the PBC managed the construction of the Westinghouse Vocational High School pursuant to the terms and conditions of an intergovernmental agreement between PBC and the Chicago Public Schools.

7. The Board of Education of the City of Chicago is a body politic and corporate, organized and operating under Section 342 of the School Code, 105 ILCS 5/342, and is more commonly referred to as "Chicago Public Schools" ("CPS"). CPS is designated School District No. 299 by the Illinois State Board of Education.

8. At all times relevant to this Complaint, CPS owned a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County, Illinois ("Site"), where the

Westinghouse Vocational High School was being constructed.

9. GSG Consultants, Inc. ("GSG") is an Illinois corporation in good standing.

10. GSG was retained by the PBC for the general oversight over construction of the Westinghouse Vocational High School at the Site.

11. GSG's duties for the Westinghouse Vocational High School construction project included ensuring construction activities at the Site complied with environmental laws and regulations, including soil management and disposal of soils excavated from the Site, conducting environmental assessments and remediation activities for the Site, including Illinois EPA's Site Remediation Program ("SRP") activities for the Site, which included determining the presence of contaminants in the soils at the Site.

12. O.C.A. Construction, Inc. ("OCA") is an Illinois corporation in good standing.

13. At all times relevant to the Complaint, OCA was the general contractor of the project at the Site.

14. Speedy Gonzalez Landscaping, Inc. ("SGL") is an Illinois corporation in good standing.

15. At all times relevant to the Complaint, SGL was a subcontractor to OCA. SGL's duties at the Site included excavating soil and arranging for the transportation and disposal of the soils off-site.

16. Reliable Materials Lyons, LLC. ("Reliable"), is an Illinois limited liability company in good standing.

17. At all times relevant to the Complaint, Reliable owned and operated a clean construction or demolition debris ("CCDD") fill operation located at 4401 First Avenue, Lyons, Cook County, Illinois ("CCDD Facility").

18. On or about March 10, 2006, on a date better known to Respondents, Reliable entered into a contract with SGL for the disposal of soils, which were excavated from the Site, at Reliable's CCDD Facility.

FACTUAL ALLEGATIONS

I. Westinghouse Vocational High School Construction Site

19. Section 58.16 of the Act, 415 ILCS 5/58.16, mandates that prior to the construction of a school in Cook County, a Phase I Environmental Audit must be completed and if environmental impacts warrant it, the school must be enrolled in the Illinois EPA's SRP.

20. In May, 2004, Clean World Engineering, Ltd. ("CWE") performed a Phase I Environmental Audit of the Site for CPS for the purpose of identifying environmental impacts at the Site.

21. CWE identified the following historic uses of the Site: 1) the southern portion of the Site was formerly a coal storage site; 2) the western portion of the Site was formerly used as a warehouse, laundry, garage and a plating facility; and 3) the parking lot had formerly been used as a gas station and the commercial building to the northwest was formerly used for manufacturing operations.

22. In August and September 2005, GSG performed a comprehensive site investigation ("CSI") of the Site to identify, among other things, any contamination of the soils.

23. On November 30, 2005, GSG prepared and submitted an application on behalf of the PBC, the remedial applicant, and CPS, the owner of the Site, to enroll the Site into the Illinois EPA's SRP for the purpose of characterizing the nature and extent of soil and ground water contamination at the Site, appropriately addressing the contamination, and ultimately obtaining a No Further Remediation Letter from the Illinois EPA.

24. On December 8, 2005, Illinois EPA accepted the Site into the SRP program.

25. PBC had a document entitled "Book 3(c) Soil Handling and Management Specifications" ("Book 3(c)") prepared for it, which set forth, among other things, the parameters for managing and disposing of on-site soils during the construction project.

26. Book 3(c) contained, among other things, analytical results showing that prior to excavation and removal of the soils at the Site that occurred from at least April 4, 2006 through July 19, 2006, on dates better known to Respondents, the soils at the Site contained inorganic chemicals, volatile organic compounds ("VOCs"), semi volatile organic compounds ("SVOCs"), and polynuclear aromatic hydrocarbons ("PNAs").

27. The analytical results contained in Book 3(c), indicated that the levels of inorganic chemicals in the soils at the Site exceeded the Background Soils Concentrations within Metropolitan Statistical Areas for inorganic chemicals, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G. A copy of Table G of 35 Ill. Adm. Code 742, Appendix A is incorporated by reference and attached as exhibit 1. A table summarizing the documented exceedances of the Background Soils Concentrations within Metropolitan Statistical Areas for inorganic chemicals, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, for the sampling done by GSG as part of the CSI is incorporated by reference and attached as Exhibit 2.

28. Book 3(c) also contained a schematic drawing of the Site prepared by GSG, which indicated that all soils at the Site exceeded the Tiered Approach to Corrective Action Objectives ("TACO") tier 1 site remediation objectives ("SROs"), as set forth in 35 Ill. Adm. Code part 742.

II. Reliable's CCDD Facility

29. On December 2, 2005, Reliable submitted an application to the Illinois EPA for

interim authorization to accept CCDD at its CCDD Facility for disposal, pursuant to Section 22.51 of the Act, 415 ILCS 5/22.51.

30. On at least April 4, 2006, from a date better known to Respondents, Reliable began receiving loads of soils, which were excavated at the Site by SGL.

31. On April 14, 2006, GSG sent a letter to OCA, stating that Reliable was not one of the disposal facilities that OCA submitted in its bid proposal, that Reliable was not a permitted disposal facility and therefore soils excavated and removed from the Site should not be disposed of at Reliable's CCDD Facility. The April 14, 2006, letter from GSG to OCA also directed OCA to dispose of all excavated materials at Munster Landfill, Land and Lakes Landfill, or CID Landfill.

32. On April 19, 2006, the PBC sent a letter to OCA suspending all work at the Site, because soils excavated and removed from the Site were being sent to Reliable without documentation that Reliable was a permitted disposal that could accept the soils from the Site.

33. On April 20, 2006, Reliable sent a letter to SGL stating that Reliable had received Book 3(c) and reviewed the analytical data contained therein and that Reliable had determined that much of the material on the Site falls within the definition of clean construction or demolition debris.

34. On May 4, 2006, OCA sent a letter to GSG requesting that Reliable's CCDD Facility be used to dispose of some of the soils excavated and removed from the Site.

35. On at least June 5, 2006, on a date better known to Respondents, SGL began sending soils excavated and removed from the Site to Reliable's CCDD Facility for disposal.

36. On July 14, 2006, the Illinois EPA inspected the Site. At that time, a representative of SGL informed the Illinois EPA inspector that approximately 60,000 cubic yards

of soils excavated and removed from the Site had been sent to Reliable's CCDD Facility for disposal from at least April 4, 2006 through the date of the Illinois EPA's inspection, July 14, 2006.

37. During the Illinois EPA's July 14, 2006 inspection, a representative of SGL stated that five loads of soils that were excavated and removed from the Site and shipped to Reliable's CCDD Facility had recently been rejected by Reliable, because Reliable's photo ionization detection ("PID") readings of the soils from the Site showed high detection levels for VOCs.

38. Also, during the July 14, 2006 inspection, a representative of SGL stated to the Illinois EPA inspector that he was instructed by GSG to spread out the soils that were excavated around the location of leaking underground storage tanks at the Site and allow the VOCs to be volatilized to the atmosphere before transporting them to Reliable's CCDD Facility.

39. On July 26, 2006, the Illinois EPA inspected the Site and met with Respondents CPS, OCA, GSG, and SGL to determine where the soils that were excavated and removed from the Site had been disposed for the period from at least April 4, 2006 to at least July 19, 2006, on dates better known to Respondents.

40. On July 26, 2006, GSG sent a letter to OCA instructing OCA to immediately cease transporting all soils excavated and removed from the Site to Reliable's CCDD Facility.

CLAIM FOR RELIEF

I. VIOLATION OF THE ENVIRONMENTAL PROTECTION ACT BY ALL RESPONDENTS

Count I is brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against the Respondents, RELIABLE MATERIALS LYONS, LLC, an Illinois limited liability company.

GSG CONSULTANTS, INC., an Illinois corporation, O.C.A. CONSTRUCTION, INC., an Illinois corporation, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, PUBLIC BUILDING COMMISSION OF CHICAGO, an Illinois municipal corporation, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate.

COUNT I
OPEN DUMPING

1-40. Complainant realleges and incorporates by reference herein paragraphs 1 through 40 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations" as paragraphs 1 through 40 of this Count I.

41. Section 21(a) of the Act, 415 ILCS 5/21(a) (2010), provides as follows:

No person shall:

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

42. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

"PERSON" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, political subdivision, state agency, or other legal entity, or their legal representative, agent or assigns.

43. CPS, PBC, GSG, OCA, SGL, and Reliable are each a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

44. Section 3.305 of the Act, 415 ILCS 5/3.305 (2010), provides the following definition:

"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.

45. Section 3.385 of the Act, 415 ILCS 5/3.385 (2010), provides the following definition:

“REFUSE” means waste.

46. Section 3.535 of the Act, 415 ILCS 5/3.535 (2010), provides the following definition:

"WASTE" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility 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...

47. Section 3.335 of the Act, 415 ILCS 5/3.335 (2010), provides the following definition:

“Pollution control waste” means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose 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. “Pollution control waste” includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, landfill waste, scrubber sludges and chemical spill cleanings.

48. Section 3.540 of the Act, 415 ILCS 5/3.540 (2010), provides the following definition:

“Waste disposal site” is a site on which solid waste is disposed.

49. Section 3.185 of the Act, 415 ILCS 5/3.185 (2010), provides the following definition:

“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.

50. Section 3.445 of the Act, 415 ILCS 5/3.445 (2010), provides the following definition:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, 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.

51. Section 3.160(b) of the Act, 415 ILCS 5/3.160(b) (2006), provides in pertinent part as follows:

- b) Clean construction or demolition debris means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.

52. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

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

53. Section 742.200. of the Pollution Control Board (“Board”) Waste Disposal Regulations, 35 Ill. Adm. Code 742.200, provides the following definitions:

* * *

"Area Background" means *concentrations of regulated substances that are consistently present in the environment in the vicinity of a site that are the result of natural conditions or human activities, and not the result solely of releases at the site.* [415 ILCS 5/58.2]

* * *

"Contaminant of concern" or "*regulated substance of concern*" means *any contaminant that is expected to be present at the site based upon past and current land uses and associated releases that are known to the Remediation Applicant based upon reasonable inquiry.* [415 ILCS 5/58.2]

54. The soils at the Site contained inorganic chemicals, including aluminum, arsenic, barium, beryllium, cadmium, calcium, chromium, cobalt, copper, cyanide, iron, lead, magnesium, mercury, nickel, potassium, selenium, sodium, thallium, vanadium, and zinc, each of which is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165.

55. The soils at the Site contained inorganic chemicals, including aluminum, arsenic, barium, beryllium, cadmium, calcium, chromium, cobalt, copper, cyanide, iron, lead, magnesium, mercury, nickel, potassium, selenium, sodium, thallium, vanadium, and zinc each, of which is a “contaminant of concern,” as that term is defined in Section 742.200 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 742.200.

56. “Area Background” concentrations for contaminants of concern for inorganic chemicals within Metropolitan Statistical Areas are set forth in 35 Ill. Adm. Code 742, Appendix A, Table G. (Exhibit 1 to this Complaint).

57. As set forth in Exhibit 2 and incorporated by reference and attached hereto, the soils excavated and removed from the Site and dumped at Reliable’s CCDD Facility, contained contaminants and contaminants of concern that exceeded “Area Background,” as that term is defined in Section 742.200 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 742.200; to wit: aluminum (6 exceedances in the 45 soil borings), arsenic (39 exceedances in the 45 soil borings), barium (25 exceedances in the 45 soil borings), beryllium (4 exceedances in the 45 soil borings), cadmium (27 exceedances in the 45 soil borings), calcium (6 exceedances in the 45 soil borings), chromium (37 exceedances in the 45 soil borings), cobalt (5 exceedances in the 45 soil borings), copper (7 exceedances in the 45 soil borings), cyanide (8 exceedances in the 45 soil borings), iron (6 exceedances in the 45 soil borings), lead (31 exceedances in the 45 soil

borings), magnesium (7 exceedances in the 45 soil borings), mercury (19 exceedances in the 45 soil borings), nickel (6 exceedances in the 45 soil borings), potassium (5 exceedances in the 45 soil borings), selenium (5 exceedances in the 45 soil borings), sodium (7 exceedances in the 45 soil borings), thallium (2 exceedances in the 45 soil borings), vanadium (4 exceedances in the 45 soil borings), and zinc (5 exceedances in the 45 soil borings). A table summarizing the number of documented exceedances of the Background Soils Concentrations within Metropolitan Statistical Areas for inorganic chemicals, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, done by GSG as part of the CSI is incorporated by reference and attached as Exhibit 3.

58. As set forth in Exhibit 2 attached hereto, the soils excavated and removed from the Site and dumped at Reliable's CCDD Facility, contained inorganic chemicals, contaminants and contaminants of concern, in concentrations that exceeded Background Soils Concentrations within Metropolitan Statistical Areas for inorganic chemicals, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G.

59. Since the soils excavated and removed from the Site and dumped at Reliable's CCDD Facility contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, the soils excavated and removed from the Site and dumped at Reliable's CCDD Facility were contaminated soils and therefore did not constitute "CCDD," as that term is defined in Section 3.160(b) of the Act, 415 ILCS 5/3.160(b) (2006).

60. The soils excavated and removed from the Site and dumped at Reliable's CCDD Facility contained contaminants that were removed from the land, which posed a potential threat to human health, in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742,

Appendix A, Table G, and therefore constitute “pollution control waste,” as that term is defined in Section 3.335 of the Act, 415 ILCS 5/3.335 (2010).

61. The soils excavated and removed from the Site, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, were discarded by Respondents at Reliable’s CCDD Facility and therefore constitute “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2010).

62. Dumping, depositing, or placing soils excavated and removed from the Site, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, and dumped by Respondents at Reliable’s CCDD Facility constitutes “disposal,” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2010).

63. Reliable’s CCDD Facility, where Respondents caused or allowed the disposal of the soils excavated and removed from the Site that contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, constitutes a “waste disposal site,” as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2010)

64. Reliable has never been permitted by the Illinois EPA for the disposal of waste at its CCDD Facility.

65. Since Reliable has never been permitted by the Illinois EPA for the disposal of waste at its CCDD Facility, the CCDD Facility does not meet the requirements of a “sanitary landfill,” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2010).

66. The depositing, dumping, and accumulation of waste at Reliable’s CCDD Facility

constitutes "open dumping," as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2010).

67. CPS, as owner of the Site, caused or allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at Reliable's CCDD Facility.

68. PBC, as manager and agent of CPS for the construction of the Westinghouse Vocational High School at the Site pursuant to the terms and conditions of an intergovernmental agreement between PBC and CPS, caused or allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at Reliable's CCDD Facility.

69. GSG, as a contractor to PBC and responsible for the general oversight over construction of the Westinghouse Vocational High School at the Site, including ensuring construction activities at the Site complied with environmental laws and regulations, specifically soil management and disposal of soils excavated from the Site. In addition, GSG was responsible for conducting environmental assessments and remediation activities for the Site, such as Illinois EPA's SRP activities for the Site, which included determining the presence of contaminants in the soils at the Site, caused or allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at Reliable's CCDD Facility.

70. OCA, as a contractor to PBC and responsible for the removal and proper disposal of the soils generated at the Site, caused or allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at Reliable's CCDD Facility.

71. SGL, as a subcontractor to OCA and responsible for the excavation and removal of the soils at the Site, caused or allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at Reliable's CCDD Facility.

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72. Reliable allowed the depositing, dumping, and accumulation of waste in a manner that resulted in open dumping of waste at its CCDD Facility.

73. From at least April 4, 2006 to at least July 19, 2006, on dates better known to Respondents, by their acts and omissions as alleged herein, Respondents, CPC, PBC, GSG, OCA, SGL, and Reliable caused or allowed waste to be deposited and to accumulate at Reliable's CCDD Facility, thereby causing or allowing the open dumping of waste, in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, RELIABLE MATERIALS LYONS, LLC, an Illinois limited liability company, GSG CONSULTANTS, INC., an Illinois corporation, O.C.A. CONSTRUCTION, INC., an Illinois corporation, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, PUBLIC BUILDING COMMISSION OF CHICAGO, an Illinois municipal corporation, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate, as follows:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010);
3. Ordering the Respondents to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2010);
4. Ordering the Respondents to immediately undertake all necessary corrective action that will result in a final and permanent abatement of violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2010), including but not limited to: (a) performing groundwater

monitoring to determine whether and to what extent groundwater contamination has occurred underlying the Reliable CCDD Facility by Respondents' disposal of waste at the Reliable CCDD Facility; and (b) taking all actions necessary to correct or remediate any groundwater contaminated by Respondents' disposal of waste at the Reliable CCDD Facility;

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(a) of the Act with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Ordering Respondents to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

II. VIOLATIONS OF THE ACT BY RESPONDENTS SGL AND CPS

Count II is brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against the Respondents, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate.

COUNT II **VIOLATION OF THE SPECIAL WASTE REGULATIONS**

1-60. Complainant realleges and incorporates by reference herein paragraphs 1 through 40 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations" and paragraphs 42, 43, and 46 through 63 of Count I, as paragraphs 1 through 60 of this Count II.

61. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), provides as follows:

No person shall:

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

* * *

(2) in violation of any regulations or standards adopted by the Board under this Act

62. Section 3.475 of the Act, 415 ILCS 5/3.475 (2010), provides, in pertinent part, the following definition:

“Special waste” means any of the following:

* * *

(c) industrial process waste or pollution control waste, except:

(1) any such waste certified by its generator, pursuant to Section 22.48 of this Act, not to be any of the following:

(A) a liquid, as determined using the paint filter test set forth in subdivision (3)(A) of subsection (m) of Section 811.107 of Title 35 of the Illinois Administrative Code;

(B) regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR Section 61.141;

(C) polychlorinated biphenyls (PCB's) regulated pursuant to 40 CFR Part 761;

(D) an industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of Section 728.107 of Title 35 of the Illinois Administrative Code under the land disposal restrictions of Part 728 of Title 35 of the Illinois Administrative Code; and

(E) a waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of this Act;

63. Section 22.48 of the Act, 415 ILCS 5/22.48 (2010), provides, in pertinent part, as follows:

Non-special waste certification; effect on permit.

(a) An industrial process waste or pollution control waste not within the exception

set forth in subdivision (2) of subsection (c) of Section 3.475 of this Act must be managed as special waste unless the generator first certifies in a signed, dated, written statement that the waste is outside the scope of the categories listed in subdivision (1) of subsection (c) of Section 3.475 of this Act.

(b) All information used to determine that the waste is not a special waste shall be attached to the certification. The information shall include but not be limited to:

- (1) the means by which the generator has determined that the waste is not a hazardous waste;
- (2) the means by which the generator has determined that the waste is not a liquid;
- (3) if the waste undergoes testing, the analytic results obtained from testing, signed and dated by the person responsible for completing the analysis;
- (4) if the waste does not undergo testing, an explanation as to why no testing is needed;
- (5) a description of the process generating the waste; and
- (6) relevant Material Data Safety Sheets.

(c) Certification made pursuant to this Section shall be effective from the date signed until there is a change in the generator, in the raw materials used, or in the process generating the waste.

(d) Certification made pursuant to this Section, with the requisite attachments, shall be maintained by the certifying generator while effective and for at least 3 years following a change in the generator, a change in the raw materials used, or a change in or termination of the process generating the waste. The generator shall provide a copy of the certification, upon request by the Agency, the waste hauler, or the operator of the facility receiving the waste for storage, treatment, or disposal, to the party requesting the copy. If the Agency believes that the waste that is the subject of the certification has been inaccurately certified to, the Agency may require the generator to analytically test the waste for the constituent believed to be present and provide the Agency with a copy of the analytic results.

64. The soils excavated and removed from the Site and disposed at Reliable's CCDD Facility, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, constitute "pollution control waste," as that term is defined in Section 3.335 of the Act, 415 ILCS 5/3.335 (2010), and therefore also constitute "special waste," as that term is defined in Section 3.475 of the Act, 415 ILCS 5/3.475 (2010).

65. Section 3.205 of the Act, 415 ILCS 5/3.205 (2010), provides the following definition:

“Generator” means any person whose act or process produces waste.

66. CPS and SGL, by their activities at the Site as alleged herein, are each a “generator,” as that term is defined in Section 3.205 of the Act, 415 ILCS 5/3.205 (2010).

67. Section 808.121(a), (b) and (c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), (b) and (c), provides in pertinent part as follows:

Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.
- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:
 - 1) The person is subject to the small quantity generator exemption of Section 808.123.
 - 2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.
 - 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
 - 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:
 - 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or

2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).

68. Section 808.122 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

808.122, provides as follows:

Manifests

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

69. Section 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 809.301, provides as follows:

Requirements for Delivery of Nonhazardous Special Waste to Transporters

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part.

70. In a November 2, 2005, CPS internal memorandum, CPS' Environmental Services Manager certified, in writing, that with the exception of soils associated with underground tank releases, all soils removed from the Site were not "special wastes" ("non-special waste certification").

71. CPS in its November 2, 2005, non-special waste certification for the Site failed to show that their pollution control waste and/or industrial process waste was not a special waste, as required by Section 3.475(c)(1) of the Act, 415 ILCS 5/3.475(c)(1) (2010), and as required by Section 22.48(b)(1) of the Act, 415 ILCS 5/22.48(b)(1). Therefore CPS' non-special waste certification for the Site was not a valid special waste determination.

72. SGL did not make a special waste determination for the soils that were excavated and removed from the Site and shipped to and disposed at Reliable's CCDD Facility.

73. By failing to make a valid special waste determination, Respondents, CPS and SGL, violated Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a).

74. Respondents, CPS and SGL, failed to prepare any manifests for the soils that were excavated and removed from the Site and shipped to and disposed at Reliable's CCDD Facility.

75. By failing to prepare any manifests for the soils that were excavated and removed from the Site and shipped to and disposed at Reliable's CCDD Facility, Respondents, CPS and SGL, violated Section 808.122 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.122.

76. Respondents, CPS and SGL delivered special waste without any manifests to transporters, who are better known to Respondents, for disposal at Reliable's CCDD Facility.

77. By delivering special waste without any manifests to transporters, Respondents, CPS and SGL, violated Section 808.121(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), and Section 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.301, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

78. Reliable has never been permitted by the Illinois EPA for the disposal of special waste at its CCDD Facility.

79. CPS, as owner of the Site, caused or allowed the disposal of special waste at Reliable's CCDD Facility.

80. SGL, as a subcontractor to OCA and responsible for the excavation and removal

of the soils at the Site, caused or allowed the disposal of special waste at Reliable's CCDD Facility.

81. From at least April 4, 2006 to at least July 19, 2006, on dates better known to Respondents, by their acts and omissions as alleged herein, Respondents, CPS and SGL caused or allowed the disposal of special waste at Reliable's CCDD Facility, which is a site not permitted to accept special waste.

82. As alleged herein, by causing or allowing the disposal of special waste at Reliable's CCDD Facility, which is a site not permitted to accept special waste, Respondents, CPS and SGL, violated Section 808.121(c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(c), and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate, as follows:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding Respondents, Speedy Gonzalez Landscaping, Inc. and Board of Education of the City Of Chicago have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Sections 808.121(a)(b) and (c), 808.122, and 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)(b) and (c), 808.122, and 809.301;
3. Ordering Respondents, Speedy Gonzalez Landscaping, Inc. and Board of Education of the City Of Chicago, to cease and desist from any further violations of Section

21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Sections 808.121(a)(b) and (c), 808.122, and 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)(b) and (c), 808.122; and 809.301;

4. Assessing against Respondents, Speedy Gonzalez Landscaping, Inc. and Board of Education of the City Of Chicago, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Sections 808.121(a)(b) and (c), 808.122, and 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)(b) and (c), 808.122, and 809.301, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

III. VIOLATIONS OF THE ACT AND BOARD REGULATIONS BY RELIABLE

Counts III and IV are brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against Respondent, RELIABLE MATERIALS LYONS, LLC, an Illinois limited liability company.

COUNT III **CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT**

1-60. Complainant realleges and incorporates by reference herein paragraphs 1 through 40 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations" and paragraphs 42, 43, and 46 through 63 of Count I, as paragraphs 1 through 60 of this Count III.

61. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010), provides in pertinent 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,

62. Reliable has never been issued a permit by the Illinois EPA for the disposal of waste at its CCDD Facility.

63. From at least April 4, 2006 to at least July 19, 2006, on dates better known to Respondents, Reliable accepted approximately 60,000 cubic yards of waste for disposal at its CCDD Facility in the form of soils that were excavated and removed from the Site, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G.

64. By disposing of approximately 60,000 cubic yards of waste at its CCDD Facility in the form of soils that were excavated and removed from the Site, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, Reliable conducted a waste-disposal operation without a permit issued by the Illinois EPA.

65. By conducting a waste disposal operation without a permit issued by the Illinois EPA, Reliable violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RELIABLE MATERIALS LYONS,

LLC, an Illinois limited liability company, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent, Reliable Materials Lyons, LLC, has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010);
3. Ordering Respondent, Reliable Materials Lyons, LLC, to cease and desist from any further violations of 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010);
4. Ordering Respondent, Reliable Materials Lyons, LLC, to immediately undertake all necessary corrective action that will result in a final and permanent abatement of violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010), including but not limited to: (a) performing groundwater monitoring to determine whether and to what extent groundwater contamination has occurred underlying the Reliable CCDD Facility by Respondents' disposal of waste at the Reliable CCDD Facility; and (b) taking all actions necessary to correct or remediate any groundwater contaminated by Respondents' disposal of waste at the Reliable CCDD Facility;
5. Assessing against Respondent, Reliable Materials Lyons, LLC, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Ordering Respondent, Reliable Materials Lyons, LLC, to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
7. Granting such other relief as the Board deems appropriate and just.

COUNT IV
ACCEPTING SPECIAL WASTE FROM HAULERS WITHOUT MANIFESTS

1-69. Complainant realleges and incorporates by reference herein paragraphs 1 through 40 of the foregoing sections of this Complaint entitled "Nature of the Action," "The Parties," and "Factual Allegations" and paragraphs 42, 43, and 46 through 63 of Count I, and paragraphs 62 through 64, 69 through 71, 73, 75, and 77 of Count II, as paragraphs 1 through 69 of this Count IV.

70. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), provides in pertinent part as follows:

No person shall:

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

* * *

2. in violation of any regulations or standards adopted by the Board under this Act.

* * *

71. Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a), provides as follows:

Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters

a) No person may accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter unless the special waste transporter has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste.

72. From at least April 4, 2006 to at least July 19, 2006, on dates better known to Respondents, Reliable accepted approximately 60,000 cubic yards of special waste for disposal, in the form of soils that were excavated and removed from the Site, which contained contaminants in the form of inorganic chemicals that exceeded the Background Soils Concentrations within Metropolitan Statistical Areas, pursuant to 35 Ill. Adm. Code 742, Appendix A, Table G, without receiving any completed, signed manifests designating Reliable's CCDD Facility as the destination for the special waste.

73. Reliable by its actions as alleged herein violated Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a), and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RELIABLE MATERIALS LYONS, LLC, an Illinois limited liability company, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent, Reliable Materials Lyons, LLC, has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a);
3. Ordering Respondent, Reliable Materials Lyons, LLC, to cease and desist from any further violations of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a);
4. Ordering Respondent, Reliable Materials Lyons, LLC, to immediately undertake all necessary corrective action that will result in a final and permanent abatement of violations of

Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a), including but not limited to: (a) performing groundwater monitoring to determine whether and to what extent groundwater contamination has occurred underlying the Reliable CCDD Facility by Respondents' disposal of waste at the Reliable CCDD Facility; and (b) taking all actions necessary to correct or remediate any groundwater contaminated by Respondents' disposal of waste at the Reliable CCDD Facility;

5. Assessing against Respondent, Reliable Materials Lyons, LLC, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Section 809.302(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

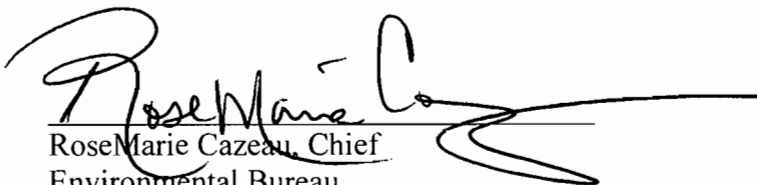
6. Ordering Respondent, Reliable Materials Lyons, LLC, to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

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:



Rose Marie Cazeau, Chief
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EXHIBIT

1

EXHIBIT #1

Section 742.APPENDIX A General

Section 742.TABLE G Concentrations of Inorganic Chemicals in Background Soils

Chemical Name	Counties Within Metropolitan Statistical Areas (mg/kg)	Counties Outside Metropolitan Statistical Areas (mg/kg)
Aluminum	9,500	9,200
Antimony	4.0	3.3
Arsenic	13.0	11.3
Barium	110	122
Beryllium	0.59	0.56
Cadmium	0.6	0.50
Calcium	9,300	5,525
Chromium	16.2	13.0
Cobalt	8.9	8.9
Copper	19.6	12.0
Cyanide	0.51	0.50
Iron	15,900	15,000
Lead	36.0	20.9
Magnesium	4,820	2,700
Manganese	636	630
Mercury	0.06	0.05
Nickel	18.0	13.0
Potassium	1,268	1,100
Selenium	0.48	0.37
Silver	0.55	0.50
Sodium	130	130.0
Sulfate	85.5	110
Sulfide	3.1	2.9
Thallium	0.32	0.42
Vanadium	25.2	25.0
Zinc	95.0	60.2

BOARD NOTE: Counties within Metropolitan Statistical Areas: Boone, Champaign, Clinton, Cook, DuPage, Grundy, Henry, Jersey, Kane, Kankakee, Kendall, Lake, Macon, Madison, McHenry, McLean, Menard, Monroe, Peoria, Rock Island, Sangamon, St. Clair, Tazewell, Will, Winnebago and Woodford.

(Source: Amended at 31 Ill. Reg. 4063, effective February 23, 2007)

EXHIBIT

2

EXHIBIT #2

**TABLE SUMMARIZING THE DOCUMENTED EXCEEDANCES
OF THE BACKGROUND SOILS CONCENTRATIONS WITHIN METROPOLITAN
STATISTICAL AREAS FOR INORGANIC CHEMICALS,
PURSUANT TO 35 ILL. ADM. CODE 742, APPENDIX A, TABLE G**

Soil Boring	Depth Feet	Analyte	Results mg/kg	Background mg/kg
SB1-2	3-4	Barium	110	110
		Chromium	28	16.2
		Lead	51	36
SB2-1	2-3	Arsenic	9.4	7.2
		Barium	190	110
		Cadmium	1.2	0.6
		Chromium	23	16.2
		Lead	330	36
		Mercury	0.23	0.06
SB3-1	1-2	Arsenic	9.0	7.2
		Barium	340	110
		Cadmium	1.7	0.6
		Chromium	20	16.2
		Lead	690	36
		Mercury	0.52	0.06
SB4-2	4-5	Arsenic	8.0	7.2
		Chromium	24.0	16.2
SB5-1	2-3	Arsenic	8.2	7.2
		Cadmium	0.84	0.6
		Chromium	20	16.2
		Lead	90	36
		Mercury	0.19	0.06
SB6-1	2-3	Arsenic	10	7.2
		Chromium	26	16.2
		Lead	46	36

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
SB7-2	3-4	Cadmium	14	0.6
		Chromium	64	16.2
		Lead	190	36
		Mercury	0.097	0.06
SB8-1	2-3	Below background		
SB8-2	4-5	Chromium	24	16.2
		Lead	44	36
SB9-1	1-2	Arsenic	8.2	7.2
		Cadmium	1.7	0.6
		Chromium	54	16.2
		Lead	47	36
		Cyanide	49	0.51
		Mercury	0.87	0.06
SB9-2	4-5	Below background		
SB10-1	1-2	Below background		
SB10-2	9-10	Arsenic	7.8	7.2
		Mercury	0.16	0.06
SB11-2	3-4	Cadmium	0.89	0.6
		Chromium	30	16.2
SB12-1	2-3	Cadmium	1	0.6
		Chromium	35	16.2
		Cyanide	130	0.51
		Lead	100	36
		Mercury	4.1	0.06
		Selenium	1.5	0.48

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
SB12-2	5-6	Cyanide	24	0.51
SB13-1	2-3	Arsenic	7.4	7.2
		Chromium	23	16.2
SB13-2	3-4	Below background		
SB14-2	4-5	Arsenic	9.3	7.2
		Barium	150	110
		Chromium	27	16.2
SB15-1	2-3	Arsenic	11	7.2
		Barium	160	110
		Chromium	19	16.2
		Cadmium	0.97	0.60
		Cyanide	5	0.51
		Lead	240	36
		Mercury	1.2	0.06
SB15-2	5-6	Below background		
SB16-1	2-3	Barium	160	110
		Cadmium	2.4	0.6
		Chromium	26	16.2
		Lead	37	36
SB17-1	1-2	Below background		
SB17-2	4-5	Chromium	18	16.2
		Lead	53	36
SB18-2	6-7	Arsenic	13	7.2
		Barium	110	110
		Cadmium	0.65	0.60
		Chromium	19	16.2

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
SB19-1	2-3	Arsenic	9.5	7.2
		Barium	110	110
		Cadmium	9.9	0.6
		Chromium	32	16.2
		Lead	280	36
SB19-1	2-3	Lead	280	36
		Mercury	1.8	0.06
WH1-1	2-3	Chromium	25	16.2
WH2-1	1-2	Barium	120	110
		Chromium	31	16.2
WH3-1	2-3	Arsenic	9.3	7.2
		Aluminum	14,000	9,500
		Barium	540	110
		Cadmium	0.64	0.60
		Chromium	19	16.2
		Calcium	73,000	9,300
		Cobalt	9.4	8.9
		Copper	28	19.6
		Iron	20,000	15,900
		Lead	250	36
		Magnesium	18,000	4,820
		Mercury	0.54	0.06
		Nickel	25	18
		Potassium	2,500	1,268
		Sodium	320	130
Vanadium	27	25.2		
Zinc	260	95.0		
WH4-1	2-3	Barium	190	110
		Lead	310	36
WH5-1	2-3	Chromium	28	16.2

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
WH6-1	1-2	Arsenic	13	7.2
		Barium	150	110
		Cadmium	1.3	0.6
		Chromium	28	16.2
		Lead	210	36
		Mercury	0.24	0.06
WH7-1	1-2	Antimony	170	4
		Arsenic	15	7.2
		Barium	180	110
		Cadmium	1.1	0.6
		Calcium	71,000	9,300
		Copper	42	19.6
		Lead	1,400	36
		Magnesium	26,000	4,820
		Mercury	0.58	0.06
		Sodium	340	130
		Zinc	210	95
		WH7-2	7-8	Arsenic
Chromium	24			16.2
WH8-1	2-3	Arsenic	9.6	7.2
		Cadmium	1.2	0.6
		Chromium	23	16.2
		Lead	180	36
		Mercury	0.39	0.06
WH9-1	1-2	Arsenic	8.0	7.2
		Barium	110	110
		Cadmium	0.79	0.6
		Chromium	31	16.2
		Lead	74	36
		Mercury	0.067	0.06
WH10-1	4-5	Arsenic	13	7.2
		Cadmium	0.61	0.60
		Chromium	23	16.2

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
WH10-2	9-10	Arsenic	7.8	7.2
		Chromium	22	16.2
WH11-1	1-2	Barium	160	110
		Chromium	28	16.2
		Lead	190	36
		Mercury	0.42	0.06
WH11-2	9-10	Arsenic	14	7.2
		Chromium	21	16.2
WH12-1	2-3	Arsenic	11	7.2
		Cadmium	0.79	0.6
		Chromium	21	16.2
		Lead	70	36
		Mercury	0.071	0.06
WH12-2	7-8	Arsenic	15	7.2
		Chromium	20	16.2
WH13-1	1-2	Arsenic	7.4	7.2
		Barium	110	110
		Chromium	24	16.2
WH13-2	9-10	Chromium	21	16.2
WH14-1	1-2	Aluminum	12,000	9,500
		Arsenic	13	7.2
		Barium	430	110
		Cadmium	2.9	0.6
		Calcium	27,000	9,300
		Chromium	61	16.2
		Cobalt	9.5	8.9
		Copper	100	19.6
		Cyanide	2.2	0.51
		Iron	30,000	15,900
		Lead	1300	36
		Magnesium	12,000	4,820
		Mercury	1.5	0.06
		Nickel	26	18

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
		Poatssium	1,600	1,268
		Selenium	1.1	0.48
		Sodium	360	130
		Vanadium	33	25.2
		Zinc	1,200	95
WH14-2	7-8	Arsenic	7.7	7.2
		Chromium	21	16.2
WH15-1	1-2	Arsenic	8.7	7.2
		Cadmium	0.75	0.6
		Chromium	31	16.2
		Lead	79	36
		Mercury	0.097	0.06
WH16-1	2-3	Arsenic	31	7.2
		Barium	140	110
		Lead	590	23
		Mercury	4.1	0.06
		Selenium	2.3	0.48
WH16-2	8-9	Arsenic	8.8	7.2
		Barium	270	110
		Chromium	22	16.2
WH17-1	2-3	Arsenic	30	7.2
		Barium	230	110
		Cadmium	5.5	0.6
		Chromium	40	16.2
		Lead	970	36
		Mercury	0.14	0.06
		Selenium	3.8	0.48
WH17-2	8-9	Arsenic	7.4	7.2
		Chromium	28	16.2
WH18-1	2-3	Aluminum	13,000	9,500
		Arsenic	9.2	7.2
		Beryllium	0.88	0.59
		Calcium	54,000	9,300
		Cadmium	0.73	0.59

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
		Chromium	22	16.2
		Cobalt	14	8.9
		Copper	38	19.6
		Iron	26,000	15,900
		Lead	82	36
		Magnesium	25,000	4,820
		Mercury	0.42	0.06
		Nickel	36	18.0
		Potassium	2,700	1,268
		Sodium	150	130
		Zinc	110	95.0
WH19-1	1-2	Arsenic	13	7.2
		Barium	160	110
		Cadmium	3.7	0.6
		Chromium	33	16.2
		Cyanide	3.6	0.51
		Lead	270	36
		Selenium	1.3	0.48
WH20-1	2-3	Arsenic	11	7.2
		Chromium	17	16.2
		Lead	97	36
		Mercury	0.13	0.06
WH21-1	2-3	Aluminum	10,000	9,500
		Arsenic	15	7.2
		Barium	200	110
		Beryllium	2.3	0.59
		Cadmium	2.0	0.6
		Calcium	21,000	9,300
		Cobalt	10	8.9
		Copper	76	19.6
		Iron	32,000	15,900
		Lead	260	36
		Magnesium	5,600	4,820
		Mercury	0.16	0.06
		Nickel	39	18

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
		Sodium	580	130
		Thallium	1.1	0.32
		Zinc	500	95
WH21-2	8-9	Chromium	23	16.2
		Mercury	0.41	0.06
WH22-1	2-3	Aluminum	11,000	9,500
		Arsenic	19	7.2
		Barium	560	110
		Beryllium	1.2	0.59
		Cadmium	3.2	0.6
		Calcium	36,000	9,300
		Chromium	33	16.2
		Copper	170	19.6
		Iron	29,000	15,900
		Lead	930	36
		Magnesium	11,000	4,820
		Mercury	1.8	0.06
		Nickel	29	18
		Potassium	1,900	1,268
		Selenium	1.3	0.48
		Sodium	470	130
		Thallium	1.1	0.32
		Vanadium	35	25.2
		Zinc	770	95.0
WH22-2	4-5	Arsenic	7.6	7.2
		Chromium	30	16.2
WH23-1	2-3	Arsenic	13	7.2
		Barium	130	110
		Cadmium	0.86	0.6
		Chromium	22	16.2
		Lead	78	36
WH24-1	1-2	Arsenic	10	7.2
		Barium	130	
		Cadmium	0.62	0.60
		Chromium	22	16.2
		Lead	79	36

<u>Soil Boring</u>	<u>Depth Feet</u>	<u>Analyte</u>	<u>Results mg/kg</u>	<u>Background mg/kg</u>
		Mercury	0.072	0.06
WH25-1	2-3	Chromium	29	16.2
		Cyanide	2	0.51
WH25-2	8-9	Arsenic	9.6	7.2
		Chromium	22	16.2
WH26-1	2-3	Aluminum	23,000	9,500
		Beryllium	1.5	0.59
		Chromium	33	16.2
		Cobalt	14	8.9
		Copper	44	19.6
		Cyanide	34	0.51
		Iron	31,000	15,900
		Lead	44	36
		Magnesium	6,900	4,820
		Nickel	44	18
		Potassium	3,500	1,268
		Sodium	6,000	130
		Vanadium	41	25.2

EXHIBIT

3

EXHIBIT #3

**Number of Exceedances of Inorganic Chemicals in Background Soils
Westinghouse Vocational High School
401 North Sawyer Avenue, Chicago, Cook County, Illinois**

<u>Analyte</u>	<u>Number of Soil Boring Above Background</u>	<u>Number of Soil Borings</u>
Aluminum	6	45
Arsenic	39	45
Barium	25	45
Beryllium	4	45
Cadmium	27	45
Calcium	6	45
Chromium	37	45
Cobalt	5	45
Copper	7	45
Cyanide	8	45
Iron	6	45
Lead	31	45
Magnesium	7	45
Mercury	19	45
Nickel	6	45
Potassium	5	45
Selenium	5	45
Sodium	7	45
Thallium	2	45
Vanadium	4	45
Zinc	5	45

Source: Book 3 C Submitted by GSG Consultants, Inc.

A total of 45 soil borings were taken and analyzed for Inorganic chemicals (RCRA Metals). The results were compared to 735 IAC Section 742. Appendix A: General Table G. (October 1999)

CERTIFICATE OF SERVICE

I, STEPHEN J. SYLVESTER, an Assistant Attorney General in this case, do certify that I caused to be served this 26th day of September, 2011, the foregoing Complaint and Notice of Filing upon the persons listed on the Service List by certified mail with return receipt requested and by electronic mail.



STEPHEN J. SYLVESTER