

CERTIFICATE OF SERVICE

I hereby certify that I did on August 3, 2012, 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, STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO AMERICAN GRAIN, LLC ONLY and STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO ENVIRONMENTAL OPERATIONS, INC., ONLY upon the persons listed on the Service List.



Rachel R. Medina
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

American Grain, LLC
c/o Brian J. Meginnes
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street
Suite 1400
Peoria, IL 61602-1611

Environmental Operations, Inc.
c/o Jennifer Martin
Hodge Dwyer & Driver
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement-Land)
)	
AMERICAN GRAIN, LLC, an Illinois limited)	
liability company, and ENVIRONMENTAL)	
OPERATIONS, INC., a Missouri corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2010), 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) (2010). In support of this motion, Complainant states as follows:

1. A Complaint is being filed simultaneously with separate settlements for each of the Respondents herein 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) (2010).

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) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 

Rachel R. Medina
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 3, 2012

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2010), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2010).

4. American Grain, LLC ("American Grain") is an active Illinois limited liability company which operates a feed manufacturing plant at 1 Cargill Road, Cahokia, St. Clair County, Illinois ("site"). The registered agent for American Grain is David L. Jump, 4439 Old Alton Road, Granite City, Illinois 62040.

5. Environmental Operations, Inc. ("EOI"), is an active Missouri corporation authorized to do business in Illinois with a business address of 1530 S. 2nd St., Suite 200, St. Louis, MO 63104. The registered agent for EOI is C T Corporation System, 208 So. LaSalle St., Suite 814, Chicago, IL 60604.

6. The American Grain site is not permitted as a sanitary landfill.

7. On May 3, 2010, the Illinois EPA received a citizen complaint alleging that several hundred truck loads of concrete containing rebar was being dumped at the American Grain site.

8. On May 5, 2010, the Illinois EPA conducted an inspection of the American Grain site.

9. On May 5, 2010, a truck containing general construction and demolition debris was dumping the debris at the American Grain site.

10. On May 5, 2010, the Illinois EPA inspector spoke with Dave Jump who indicated that American Grain was receiving demolition debris from EOI; that the debris came from a hospital in Kirkwood, Missouri; that the debris was being used to construct a ramp to a grain unloading bunker ("the ramp"); and, that the debris was supposed to be clean. The Illinois EPA inspector explained to Dave Jump that the debris was not clean and Dave Jump stated that he would inquire with EOI about the debris.

11. On May 5, 2010, the ramp was mainly constructed of dirt with the cap consisting of general construction and demolition debris and other waste, including concrete with protruding rebar, metal pipe, plastic pipe, a motor, copper pipe, insulated copper wire, electrical conduit, metal sewer pipe, and wood.

12. On May 5, 2010, the Illinois EPA inspector spoke with Harold Hutson of American Grain who indicated that EOI was sending the material from a hospital demolition site in Kirkwood, Missouri, where there were two piles of debris, one designated for the landfill and one designated for American Grain. Mr. Hutson also indicated that the material being placed into these piles was not screened.

13. On May 6, 2010, the Illinois EPA inspector observed waste on the entrance road to the site and at the ramp.

14. On May 6, 2010, the Illinois EPA inspector spoke with Steven Van Hook of EOI who indicated that the material on the entrance road to the site and at the ramp came from an older part of the former St. Josephs Hospital building in Kirkwood, Missouri, which was constructed in 1937. He also indicated that EOI began hauling the older material on Monday, May 3, 2010.

15. On May 11, 2010, the site did not appear to have any new loads of general construction and demolition debris dumped at the American Grain site.

16. 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.

17. "Open dumping" is defined under Section 3.305 of the Act, 415 ILCS 5/3.305 (2010), as follows:

"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.

18. "Person" is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), 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.

19. "Refuse" is defined under Section 3.385 of the Act, 415 ILCS 5/3.385 (2010), as follows:

"Refuse" means waste.

20. "Waste" is defined under Section 3.385 of the Act, 415 ILCS 5/3.535 (2010), in pertinent part, as follows:

"Waste" means any garbage...or other discarded material...."

21. American Grain and EOI are "persons" as defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

22. The materials hauled from the hospital demolition site and subsequently dumped at the American Grain site, including the concrete with protruding rebar, metal pipe, plastic pipe, a motor, copper pipe, insulated copper wire, electrical conduit, metal sewer pipe, and wood, are waste as defined under Section 3.386 of the Act, 415 ILCS 5/3.315 (2010).

23. By consolidating waste from one or more sources at the American Grain site, a site that does not fulfill the requirements of a sanitary landfill, the Respondents open dumped waste as defined under Section 3.305 of the Act, 415 ILCS 5/3.305 (2010).

24. By causing or allowing open dumping at the site, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
LITTER

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count II.

24. The Respondents open dumped waste which resulted in litter at the American Grain site.

25. Sections 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010), provide, in pertinent part, as follows:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

* * *

26. By causing or allowing open dumping of waste which resulted in litter, Respondents violated Sections 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
DEPOSITION OF CONSTRUCTION AND DEMOLITION DEBRIS

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count III.

24. The Respondents open dumped waste which resulted in deposition of general construction or demolition debris at the American Grain site.

25. Sections 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010), provide, in pertinent part, as follows:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

* * *

(7) deposition of:

- (i) general construction or demolition debris as defined in Section 3.160(a) of this Act; or
- (ii) clean construction or demolition debris as defined in Section 3.160(b) of this Act.

26. "General construction or demolition debris" is defined in Section 3.160(a) of the Act, 415 ILCS 3.160(a) (2010), as follows:

"General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood,

including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

27. By causing or allowing open dumping of waste which resulted in the deposition of general construction or demolition debris, Respondents violated Sections 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV
WASTE DISPOSAL AT UNPERMITTED SITE

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count IV.

24. The Respondents disposed of waste at the American Grain site, a facility which does not meet the requirements of the Act.

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

- (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 regulations and standards thereunder.

26. By disposing waste or transporting any waste into this State for disposal at a site which does not meet the requirements of the Act, Respondents violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT V
WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count V.

24. The Respondents conducted a waste-disposal operation at the American Grain site without a permit.

25. Section 21(d)(1) of the Act, 415 ILCS 5/21(d) (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....

26. By conducting a waste-disposal operation without a permit, Respondents violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

PRAYER FOR RELIEF

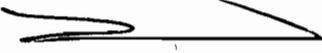
WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; 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

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
RACHEL R. MEDINA
#6297171
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/03/12

I. STATEMENT OF FACTS

A. Parties

1. Contemporaneous with the filing of this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), 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 (2010).

3. At all times relevant to the Complaint, AMERICAN GRAIN, LLC ("American Grain") was and is an active Illinois limited liability company which operates a feed manufacturing plant at 1 Cargill Road, Cahokia, St. Clair County, Illinois ("site").

4. The American Grain site is not permitted as a sanitary landfill.

5. Environmental Operations, Inc. ("EOI"), is an active Missouri corporation authorized to do business in Illinois with a business address of 1530 S. 2nd St., Suite 200, St. Louis, MO 63104.

6. On May 3, 2010, the Illinois EPA received a citizen complaint alleging that several hundred truck loads of concrete containing rebar was being dumped at the American Grain site.

7. On May 5, 2010, the Illinois EPA conducted an inspection of the American Grain site.

8. On May 5, 2010, a truck containing general construction and demolition debris was dumping the debris at the American Grain site.

9. On May 5, 2010, the Illinois EPA inspector spoke with Dave Jump who indicated that American Grain was receiving demolition debris from EOI; that the debris came from a hospital in Kirkwood, Missouri; that the debris was being used to construct a ramp to a grain unloading bunker ("the ramp"); and, that the debris was supposed to be clean. The Illinois EPA



inspector explained to Dave Jump that the debris was not clean and Dave Jump stated that he would inquire with EOI about the debris.

10. On May 5, 2010, the ramp was mainly constructed of dirt with the cap consisting of general construction and demolition debris and other waste, including concrete with protruding rebar, metal pipe, plastic pipe, a motor, copper pipe, insulated copper wire, electrical conduit, metal sewer pipe, and wood.

11. On May 5, 2010, the Illinois EPA inspector spoke with Harold Hutson of American Grain who indicated that EOI was sending the material from a hospital demolition site in Kirkwood, Missouri, where there were two piles of debris, one designated for the landfill and one designated for American Grain. Mr. Hutson also indicated that the material being placed into these piles was not screened.

12. On May 6, 2010, the Illinois EPA inspector observed waste on the entrance road to the site and at the ramp.

13. On May 6, 2010, the Illinois EPA inspector spoke with Steven Van Hook of EOI who indicated that the material on the entrance road to the site and at the ramp came from an older part of the former St. Josephs Hospital building in Kirkwood, Missouri, which was constructed in 1937. He also indicated that EOI began hauling the older material on Monday, May 3, 2010.

14. On May 11, 2010, the site did not appear to have any new loads of general construction and demolition debris dumped at the American Grain site.

B. Allegations of Non-Compliance

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

Count I: Open Dumping

By causing or allowing the consolidation of waste at the site, Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).



Count II: Litter

By causing or allowing open dumping of waste which resulted in litter, Respondent violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

Count III – Deposition of Construction and Demolition Debris

By causing or allowing open dumping of waste which resulted in the deposition of general construction or demolition debris, Respondent violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

Count IV – Waste Disposal at Unpermitted Site

By disposing of waste at a site which does not meet the requirements of the Act, Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

Count V – Waste Disposal Operation Without a Permit

By conducting a waste-disposal operation without a permit, Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

C. Non-Admission of Violations

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

D. Compliance Activities to Date

The Respondent has properly disposed of all open dumped material at the site.

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 (2010).



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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), 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.
2. The parties agree that the Respondent's operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the Respondent.
3. Respondent's operations, including the construction of a barge loading ramp was suitable to the site. However, the improper disposal of and use of general construction debris and waste materials for purposes of building the ramp was unsuitable.
4. The parties agree it is both technically practicable and economically reasonable to prevent waste material, including general construction and demolition debris from being open dumped at the American Grain site in compliance with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2010), and associated regulations, and that Respondent is taking steps to comply with the Act.



5. Respondent has subsequently complied with the Act and the Board Regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2012), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent allowed multiple loads of waste material, including general construction and demolition debris from a hospital site in Kirkwood, Missouri, to be disposed of at the site. The violations took place from at least May 3, 2010 through May 5, 2010, and were



resolved on or about August 30, 2010. The disposal violations are moderate in their potential for harm and extent of deviation from legal requirements.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance. Respondent facilitated the removal of the majority of the improperly disposed materials by May 28, 2010 and completed clean-up of the materials on or around August 30, 2010.

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

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Twelve Thousand Dollars (\$12,000.00) and a supplemental environmental project valued at Two Thousand Dollars (\$2,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. The Respondent did not self-report the violations to the Agency.

7. The Respondent has agreed to undertake a supplemental environmental enforcement project as outlined in Section V.E below.

8. There is no compliance commitment agreement.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Twelve Thousand Dollars (\$12,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing



immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

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

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the



Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

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

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

E. Supplemental Environmental Project

1. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, the Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is Two Thousand Dollars (\$2,000.00) and will offset penalties sought by the Complainant and the Illinois EPA in this matter.

2. The Respondent shall pay the amount of Two Thousand Dollars (\$2,000.00) within 30 days after the date of entry of this Stipulation to fund supplies and services for the St. Clair County hazardous materials team. The payment shall be paid by certified check or money order made payable to St. Clair County Special Services. The certified check or money order shall be sent by first class mail to:

St. Clair Special Emergency Services Association
2900 Falling Springs Road
Sauget, IL 62206

A copy of the check and the transmittal letter shall be sent to:

Rachel R. Medina
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

3. 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.

4. 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. Release from Liability

In consideration of the Respondent's payment of the \$12,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, its performance of the SEP as contained in Section V.E. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in



equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

G. Enforcement and Modification of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

H. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

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,

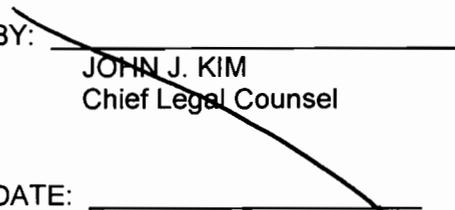
LISA MADIGAN
Attorney General
State of Illinois

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: 6/13/12

DATE: _____

AMERICAN GRAIN, LLC

BY: 

DAVE JUMP
CEO

DATE: June 8, 2012

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 

JULIE ARMITAGE
Acting Chief Legal Counsel

DATE: 6/22/12

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
AMERICAN GRAIN, LLC, an Illinois limited liability company; and, ENVIRONMENTAL OPERATIONS, INC., a Missouri Corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO ENVIRONMENTAL OPERATIONS, INC. ONLY

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 ENVIRONMENTAL OPERATIONS, INC., an Illinois Corporation ("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 alleged violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2010), 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 resolution of this matter as to ENVIRONMENTAL OPERATIONS, INC. only.

I. STATEMENT OF FACTS

A. Parties

1. Contemporaneous with the filing of this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), 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 (2010).

3. At all times relevant to the Complaint, ENVIRONMENTAL OPERATIONS, INC. ("EOI") was and is an active Missouri corporation authorized to do business in Illinois with a business address of 1530 S. 2nd St., Suite 200, St. Louis, MO 63104.

4. At all times relevant to the Complaint, AMERICAN GRAIN, LLC was and is an active Illinois limited liability company which operates a feed manufacturing plant at 1 Cargill Road, Cahokia, St. Clair County, Illinois ("American Grain site").

5. The American Grain site is not permitted as a sanitary landfill.

6. Complainant alleges that, on May 3, 2010, the Illinois EPA received a citizen complaint alleging that several hundred truck loads of concrete containing rebar was being dumped at the American Grain site.

7. Complainant alleges that, on May 5, 2010, the Illinois EPA conducted an inspection of the American Grain site.

8. Complainant alleges that, on May 5, 2010, a truck containing general construction and demolition debris was dumping the debris at the American Grain site.

9. Complainant alleges that, on May 5, 2010, the Illinois EPA inspector spoke with Dave Jump who indicated that American Grain was receiving demolition debris from EOI, that the debris came from a hospital in Kirkwood, Missouri, that the debris was being used to

construct a ramp to a grain unloading bunker ("the ramp"); and that the debris was supposed to be clean. The Illinois EPA inspector explained to Dave Jump that the debris was not clean and Dave Jump stated that he would inquire with EOI about the debris.

10. Complainant alleges that, on May 5, 2010, the ramp was mainly constructed of dirt with the cap consisting of general construction and demolition debris and other waste, including concrete with protruding rebar, metal pipe, plastic pipe, a motor, copper pipe, insulated copper wire, electrical conduit, metal sewer pipe, and wood.

11. Complainant alleges that, on May 5, 2010, the Illinois EPA inspector spoke with Harold Hutson of American Grain who indicated that EOI was sending the material from a hospital demolition site in Kirkwood, Missouri.

12. Complainant alleges that, on May 6, 2010, waste was observed on the entrance road to the site and at the ramp.

13. Complainant alleges that, on May 6, 2010, the Illinois EPA inspector spoke with Steven Van Hook of EOI who indicated that the material on the entrance road to the site and at the ramp came from an older part of the former St. Josephs Hospital building in Kirkwood, Missouri, which was constructed in 1937. He also indicated that EOI began hauling the older material on Monday, May 3, 2010.

14. Complainant alleges that, on May 11, 2010, the site did not appear to have any new loads of general construction and demolition debris dumped at the site.

B. Allegations of Non-Compliance

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

Count I: Open Dumping

By causing or allowing the consolidation of waste at the site, Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

Count II: Litter

By causing or allowing open dumping of waste which resulted in litter, Respondent violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

Count III – Deposition of Construction and Demolition Debris

By causing or allowing open dumping of waste which resulted in the deposition of general construction or demolition debris, Respondent violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

Count IV – Waste Disposal at Unpermitted Site

By disposing of waste at a site which does not meet the requirements of the Act, Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

Count V – Waste Disposal Operation Without a Permit

By conducting a waste-disposal operation without a permit, Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

C. Non-Admission of Violations

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

D. Compliance Activities to Date

The Respondent recovered the general construction and demolition debris that Respondent allegedly open dumped at the site, and sent it to the Fred Weber Landfill in St. Louis, Missouri.

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 (2010).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), 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. It is alleged that human health and the environment were threatened.
2. The parties agree that the Respondent's operations are of economic and social benefit to the surrounding community.
3. Respondent's operations are suitable to the area in which they occur.
4. The parties agree it is both technically practicable and economically reasonable to comply with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2010), and associated regulations, and that Respondent has taken steps to comply with the Act.
5. Respondent has subsequently complied with the Act and the Board Regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2012), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent allegedly hauled multiple loads of waste material, including general construction and demolition debris from a hospital site in Kirkwood, Missouri, to be disposed of at the American Grain site. The violations took place from at least May 3, 2010 through May 5, 2010, and were resolved on or about May 28, 2010. The disposal violations

are moderate in their potential for harm and extent of deviation from legal requirements.

2. Respondent was diligent in attempting to come back into compliance with the Act and Board regulations, once the Illinois EPA notified it of its noncompliance.

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

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Fourteen Thousand Dollars (\$14,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent was previously adjudicated in violation of waste disposal regulations in *People v. Environmental Operations, Inc.*, Madison County Circuit Court Case No. 07-CH-1131.

6. The open dumping incident was reported by a third party.

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

8. There is no compliance commitment agreement.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Fourteen Thousand Dollars (\$14,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rachel R. Medina
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. 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.

E. Release from Liability

In consideration of the Respondent's payment of the \$14,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

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,

LISA MADIGAN
Attorney General
State of Illinois

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

BY: _____
JOHN J. KIM
Interim Director

DATE: _____

BY: _____
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

DATE: 8/03/12

ENVIRONMENTAL OPERATIONS, INC.

BY: _____
Matt D. Robinson,
President

DATE: 7/13/12

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 
JOHN J. KIM
Interim Director

DATE: 7/30/12