

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB 13-28
)	(Enforcement – Water)
ATKINSON LANDFILL CO.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: ***Via Certified Mail***
Atkinson Landfill Co.
c/o Branko Vardijan, Registered Agent
200 N. Talman
Chicago, IL 60612

Via Regular Mail
Kenneth Anspach, Esq.
Anspach Law Office
111 West Washington Street
Suite 1625
Chicago, Illinois 60602

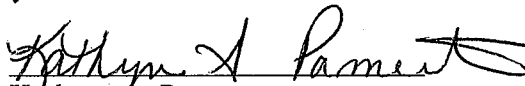
Via E-Mail
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
Brad.Halloran@illinois.gov

PLEASE TAKE NOTICE that on April 22, 2013, we filed the First Amended Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and correct copy of the First Amended Complaint is attached hereto and served upon you. Financing may be available, through the Illinois Environmental Facilities Financing Act, to correct the violations alleged in the First Amended Complaint.

Failure to file an answer to the First Amended Complaint in accordance with the Illinois Pollution Control Board's Order dated April 18, 2013 may have severe consequences. Failure to answer will mean that all allegations in the First Amended 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.

RESPECTUFLY SUBMITTED,

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

BY: 
Kathryn A. Pament
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-0608

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 ATKINSON LANDFILL CO.,)
 an Illinois corporation,)
)
 Respondent.)

PCB 13-28
(Enforcement – Water)

FIRST AMENDED COMPLAINT

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, (“Illinois EPA”) complains of Respondent, ATKINSON LANDFILL CO., an Illinois corporation, as follows:

VIOLATIONS AT THE VILLAGE OF ATKINSON SEWAGE TREATMENT PLANT

COUNT I
WATER POLLUTION

1. This Count 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 Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(2010), against Respondent Atkinson Landfill Co.

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Atkinson Landfill Co. (“Respondent”) was and is an Illinois corporation in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Respondent owned and operated, and continues to own and operate, an active municipal solid waste landfill located at 1378 Commercial Drive, Atkinson, Henry County, Illinois. Respondent operates the landfill under Permit No. 2001-021-LFM, Modification No. 5, Log No. 2010-068, issued by the Illinois EPA on April 21, 2010.

5. On April 3, 2008, the Illinois EPA issued Water Pollution Control Permit No. 2008-EO-0331 ("Water Pollution Control Permit") to Respondent. A true and correct copy of the Water Pollution Control Permit is attached hereto as Exhibit 1. The Water Pollution Control Permit provides:

Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities described as follows:

The hauling of approximately 12,000 gpd (DMF of 12,000 gpd) of landfill leachate to the headworks of the Village of Atkinson STP.

"DMF," as referred to in the Water Pollution Control Permit, means design maximum flow. The Village of Atkinson Sewage Treatment Plant ("Village STP") is located at 19696 East 2200 Street, Atkinson, Henry County, Illinois and discharges its effluent to the Green River.

6. On August 24, 2011, the Illinois EPA conducted a compliance inspection at the Village STP, including records from the Village STP. During the months of March and April 2011, Respondent hauled and disposed of leachate at the Village STP in excess of the approximately 12,000 gallons per day limit allowed by the Water Pollution Control Permit. The dates and amounts of leachate disposed of at the Village STP are as follows:

<u>Date</u>	<u>Amount</u>
March 16, 2011	16,960 gallons
March 17, 2011	12,720 gallons
March 18, 2011	12,720 gallons
March 21, 2011	12,720 gallons
March 22, 2011	12,720 gallons

March 23, 2011	12,720 gallons
March 24, 2011	12,720 gallons
March 25, 2011	12,720 gallons
March 28, 2011	12,720 gallons
March 29, 2011	12,720 gallons
March 30, 2011	42,400 gallons
March 31, 2011	21,200 gallons
April 1, 2011	42,400 gallons
April 4, 2011	38,160 gallons
April 5, 2011	42,400 gallons
April 6, 2011	42,400 gallons
April 7, 2011	42,400 gallons
April 8, 2011	25,440 gallons
April 9, 2011	38,160 gallons
April 11, 2011	50,880 gallons
April 12, 2011	50,880 gallons

7. Sometime in April 2011, and on such date better known to Respondent, the Village of Atkinson halted accepting leachate from Respondent.

8. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides, as follows:

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

10. Respondent, an Illinois corporation, is a “person,” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

11. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides as follows:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

12. The Green River constitutes “waters,” as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

13. 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.

14. The leachate generated at the Respondent’s landfill is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

15. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), provides the following definition:

“WATER POLLUTION” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

16. The discharge of certain types of wastewater in excess of permitted levels, including leachate generated by landfills, may cause serious harm to the Village STP by upsetting the treatment process, interfering with the normal operation of the Village STP or causing conditions at the Village STP which may be harmful to Village STP workers and which may result in contaminants passing through the Village STP untreated.

17. Leachate generated by landfills passing through the Village STP untreated into the Green River is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural,

recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

18. By disposing of landfill leachate at the Village STP in excess of the approximately 12,000 gallons per day limit imposed by the Water Pollution Control Permit, and thereby threatening the pass through of untreated wastewater into the Green River, Respondent threatened the discharge of a contaminant into waters of the State which could cause or tend to cause water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), 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.

COUNT II

VIOLATION OF PERMIT REQUIREMENTS

1. This Count 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, pursuant to the terms and provisions of Section 31(d) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(d) (2010).

2-15. Complainant realleges and incorporates by reference herein paragraphs 2 through 7 and 9 through 17 of Count I as paragraphs 2 through 15 of this Count II.

16. Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), provides as follows:

No person shall:

(b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

17. Section 309.204(a) of the Illinois Pollution Control Board's regulations concerning water pollution found in title 35, Subtitle C, Chapter I of the Illinois Administrative Code (the "Board Water Pollution Regulations"), 35 Ill. Adm. Code 309.204(a), titled, Operating Permits; Existing Sources, provides as follows:

a) No person shall cause or allow the use or operation of any treatment works, pretreatment works or wastewater source without an operating permit issued by the Agency

18. Section 301.430 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.430, provides as follows:

Wastewater source: Means any equipment, facility, or other source of any type whatsoever which discharges wastewater, directly or indirectly to the waters of the State.

19. Section 301.425 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.425, provides as follows:

“Wastewater[r]” means sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

20. Section 301.285 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.285, provides as follows:

“Industrial Wastes” means any solid, liquid, or gaseous wastes resulting from any process of industry, manufacturing, trade, or business or from the development, processing, or recovery, except for agricultural crop raising, of any natural resource.

21. Leachate is a liquid generated from a process of industry or business at a landfill, and thereby constitutes an “Industrial Waste” pursuant to 35 Ill. Adm. Code 301.285 and “Wastewater” pursuant to 35 Ill. Adm. Code 301.425.

22. Leachate disposed of at the Village STP in excess of the limits of the Water Pollution Control Permit is unpermitted.

23. By operating equipment, including trucks, to dispose of wastewater at the Village STP in March and April 2011 and indirectly to the Green River, a water of the State, in excess of the limits of the Water Pollution Control Permit and thus without an operating permit issued by the Illinois EPA, Respondent violated Section 309.204(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.204(a).

24. Respondent’s operation of trucks to haul leachate from Respondent’s landfill in excess of the Water Pollution Control Permit limits in March and April 2011, which was disposed of at the Village STP, was capable of causing or contributing to water pollution, thereby also violating Section 12(b) of the Act, 415 ILCS 5/12(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and 35 Ill. Adm. Code 309.204(a);
3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and 35 Ill. Adm. Code 309.204(a);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), 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.

VIOLATIONS AT THE CITY OF GALVA WASTEWATER TREATMENT PLANT

COUNT III
WATER POLLUTION

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 4, 8 through 11, and 13 through 15 of Count I as paragraphs 1 through 11 of this Count III.

12. During the months of May and June 2011, Respondent hauled and disposed of landfill leachate at the City of Galva wastewater treatment facility ("Galva WWTF"). The Galva WWTF discharges its effluent to the Edwards River.

13. Illinois EPA reviewed Hazardous Waste Manifest records maintained at the City of Galva. Between May 4, 2011, and June 16, 2011, Respondent disposed of a total of 202,750 gallons of landfill leachate at the Galva WWTF as follows:

006301439	5/4/11	3,000 gallons	006301497	6/1/11	5,000 gallons
006301441	5/5/11	6,000 gallons	006301498	6/1/11	5,000 gallons
006301442	5/4/11	3,750 gallons	006301878	6/2/11	5,000 gallons
006301443	5/5/11	5,000 gallons	006301879	6/2/11	5,000 gallons
006301444	5/7/11	5,000 gallons	006301880	6/3/11	5,000 gallons
006301445	5/6/11	5,000 gallons	006301882	6/3/11	5,000 gallons
006301446	5/6/11	5,000 gallons	006301886	6/4/11	5,000 gallons
006301447	5/9/11	5,000 gallons	006301887	6/4/11	5,000 gallons
006301453	5/6/11	5,000 gallons	006301888	6/6/11	5,000 gallons
006301454	5/7/11	5,000 gallons	006301889	6/6/11	5,000 gallons
006301455	5/9/11	5,000 gallons	006301893	6/6/11	5,000 gallons
006301459	5/9/11	5,000 gallons	006301897	6/7/11	5,000 gallons
006301473	5/17/11	5,000 gallons	006301898	6/7/11	5,000 gallons
006301474	5/17/11	5,000 gallons	006301899	6/7/11	5,000 gallons
006301475	5/17/11	5,000 gallons	006301903	6/8/11	5,000 gallons
006301478	5/18/11	5,000 gallons	006301904	6/8/11	5,000 gallons
006301479	5/18/11	5,000 gallons	006301905	6/8/11	5,000 gallons
006301480	5/18/11	5,000 gallons	006301909	6/13/11	5,000 gallons
006301495	5/28/11	5,000 gallons	006301910	6/13/11	5,000 gallons
006301496	5/28/11	5,000 gallons	006301911	6/16/11	5,000 gallons
			006301917	6/16/11	5,000 gallons

14. Between May 4, 2011 and June 16, 2011, Respondent did not apply for and had not obtained any permit from the Illinois EPA to dispose of landfill leachate at the Galva WWTF. As a result, no determination had been made as to whether the Galva WWTF could accept and treat any landfill leachate from Respondent.

15. Sometime after June 16, 2011, and on such date better known to Respondent, the Galva WWTF stopped accepting leachate from Respondent.

16. On December 22, 2011, the Illinois EPA issued Water Pollution Control Permit No. 2011-EP-2351 to Respondent to allow it to dispose of landfill leachate at the Galva WWTF thereafter.

17. The Edwards River into which the Galva WWTF discharges its effluent constitutes "waters" of the State of Illinois, as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

18. The discharge of certain types of wastewater without an operating permit, including leachate generated by landfills, may cause serious harm to the Galva WWTF by upsetting the treatment process, interfering with the normal operation of the Galva WWTF or causing conditions at the Galva WWTF which may be harmful to Galva WWTF workers and which may result in contaminants passing through the Galva WWTF untreated.

19. Leachate generated by landfills passing through the Galva WWTF untreated into the Edwards River is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

20. By disposing of landfill leachate at the Galva WWTF without any permit issued by the Illinois EPA, and thereby threatening the pass through of untreated wastewater into the Edwards River, Respondent threatened the discharge of a contaminant into waters of the State which could cause or tend to cause water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), 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.

COUNT IV

DISPOSING OF CONTAMINANTS WITHOUT A PERMIT

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 4 of Count I, paragraphs 16 through 21 of Count II and 12 through 19 of Count III as paragraphs 1 through 18 of this Count IV.

19. By operating equipment, including trucks, to dispose of wastewater indirectly to the Edwards River, which is a water of the State, without an operating permit issued by the Illinois EPA, Respondent violated Section 309.204(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.204(a).

20. Respondent's operation of trucks to haul leachate from Respondent's landfill for disposal at the Galva WWTF without an operating permit in May and June 2011, was capable of

causing or contributing to water pollution, thereby also violating Section 12(b) of the Act, 415 ILCS 5/12(b) (2010).

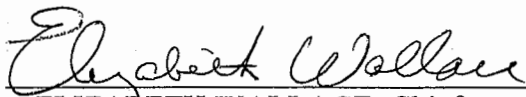
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and 35 Ill. Adm. Code 309.204(a);
3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and 35 Ill. Adm. Code 309.204(a);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), 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.

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

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

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

KATHRYN A. PAMENTER
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

CERTIFICATE OF SERVICE

I, Kathryn A. Pamentor, an Assistant Attorney General, do certify that I caused to be served this 22nd day of April, 2013, the Notice of Electronic Filing and First Amended Complaint upon (a) Atkinson Landfill Co. *via certified mail* as set forth below by placing a true and correct copy in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m, (b) Kenneth Anspach, Esq. *via regular mail* as set forth below by placing a true and correct copy in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m and (c) Bradley Halloran *via e-mail*.

Via Certified Mail

Atkinson Landfill Co.
c/o Branko Vardijan, Registered Agent
200 N. Talman
Chicago, IL 60612

Via Regular Mail

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111 West Washington Street
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Via E-Mail

Bradley P. Halloran
Hearing Officer
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KATHRYN A. PAMENTER