



**SERVICE LIST**

Rochelle Energy LLC  
c/o William J. Anaya  
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Chicago, Illinois 60606  
[wanaya@greensfelder.com](mailto:wanaya@greensfelder.com)

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
60 E. Van Buren, Suite 630  
Chicago, IL 60605  
[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)

**CERTIFICATE OF SERVICE**

I, Molly Kordas, an Assistant Attorney General, do certify that on this 8th day of January, 2024, I caused to be served a copy of the foregoing Notice of Filing and Motion for Relief from Hearing Requirement and Stipulation and Proposed Settlement, upon the persons listed on the Service List via email.

/s/ Molly Kordas

Molly Kordas

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

69 W. Washington St., 18th Floor

Chicago, Illinois 60602

(773) 590-7047

[Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 23-91
	)	(Enforcement – Air)
ROCHELLE ENERGY LLC,	)	
a Delaware limited liability company,	)	
	)	
Respondent.	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, 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) (2022), moves that the Illinois Pollution Control Board (“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) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022), and Condition 4.2.2(b)(ii)(A)(I) of CAAPP Permit 13050046.
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 this same date.
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) (2022).

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) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
KWAME RAOUL  
Attorney General of the State of Illinois

BY: /s/ Molly Kordas  
Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7047  
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DATE: January 8, 2024



upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), against 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 (2022).

3. At all times relevant to the Complaint, Respondent was and is a Delaware limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent has owned and operated a landfill gas-to-energy facility located at 6516 Mulford Road, Rochelle, Ogle County, Illinois (the "Facility").

5. At all times relevant to the Complaint, Respondent's Facility has been fueled with gas from Rochelle Municipal Landfill #2. Specifically, raw landfill gas ("LFG") is collected from Rochelle Municipal Landfill #2 and transported to the Facility, where it passes through the Facility's LFG treatment system and sulfur system. The latter removes sulfur in the form of hydrogen sulfide ("H<sub>2</sub>S") from the gas. The treated LFG is then sent to gas-fired engines and combusted to produce energy. Emissions units at the Facility include three Caterpillar G3520C landfill gas-fired engines that control emissions from the landfill and generate electricity sold to the grid.

6. On June 30, 2020, the Illinois EPA issued Clean Air Act Permit Program ("CAAPP") Permit No. 13050046 ("CAAPP Permit 13050046") to Respondent, which incorporates emissions limits, work practices, and requirements for monitoring, reporting, and recordkeeping, including a requirement to monitor the sulfur content of the LFG combusted in the engines through one of the following options: (a) weekly Draeger tube readings with quarterly lab sampling and analysis; or (b) a continuous monitoring system.

7. On July 22, 2020, in its first Semiannual Compliance Report for 2020, Respondent disclosed deviations relating to sulfur content monitoring, including that (a) the Facility's continuous monitoring device was not recording between January 1, 2020 and March 2, 2020; (b) the replacement H<sub>2</sub>S measurement cell failed, and another did not start working until on or about March 2, 2020; and (c) although Respondent took weekly Draeger tube readings as a backup and properly recorded them during the deviation period, Respondent did not complete and submit a quarterly lab sample until June of 2020.

**B. Allegations of Non-Compliance**

Complainant contends that Respondent has violated the following provision of the Act and condition of CAAPP Permit 13050046:

Count I: Failure to Monitor Processed Landfill Gas, in violation of Condition 4.2.2(b)(ii)(A)(I) of CAAPP Permit 13050046, and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2022).

**C. Non-Admission of Violations**

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, Respondent does not 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**

1. On or about March 2, 2020, Respondent resumed monitoring processed LFG, through implementation of both a continuous monitoring system and a manual Draeger tube reading system.

2. On June 30, 2020, Respondent completed a quarterly lab sample.



3. On April 11, 2023, Respondent provided documentation requested by the Illinois EPA, including an updated inspection schedule, written calibration procedures, a history of sampling issues and corrective actions taken, and an employee training plan for monitoring.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and condition of CAAPP Permit 13050046 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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 and the Illinois EPA's information gathering responsibilities were hindered by Respondent's violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Monitoring processed LFG and timely submitting lab samples for analysis are both technically practicable and economically reasonable.
5. Respondent subsequently complied with the Act and conditions of CAAPP Permit 13050046.

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

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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. Respondent failed to monitor processed LFG leaving the sulfur system for its sulfur content by either (a) weekly Draeger tube readings with quarterly lab sampling and analysis; or (b) a continuous monitoring system, and that the alleged violations began on or around January 1, 2020 and were resolved on or about March 2, 2020.
2. Respondent was diligent in returning to compliance with the Act and conditions of CAAPP Permit 13050046.
3. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Thirty-Five Thousand Dollars (\$35,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and conditions of CAAPP Permit 13050046.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

Respondent shall pay a civil penalty in the sum of Thirty-Five Thousand Dollars (\$35,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Stipulated Penalties, Interest, and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, 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, 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 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.

3. The stipulated penalties shall be enforceable by Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

**C. Payment Procedures**

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kathryn A. Pamenter, Senior Assistant Attorney General  
Molly Kordas, Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon 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, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of 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. Respondent shall cease and desist from future violations of the Act and conditions of CAAPP Permit 13050046 that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of Respondent's payment of the \$35,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and conditions of CAAPP Permit 13050046 that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on February 7, 2023. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against 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 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 (2022), or entity other than 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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.


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

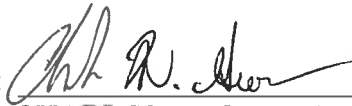
PEOPLE OF THE STATE OF ILLINOIS  
  
KWAME RAOUL  
Attorney General  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 1/4/24

DATE: 01/04/24

RESPONDENT

ROCHELLE ENERGY LLC

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

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Attorney General  
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ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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BY: \_\_\_\_\_  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General


BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

RESPONDENT

ROCHELLE ENERGY LLC

BY:  \_\_\_\_\_  
DEREK S. KRAMEA

ITS: WP & COO

DATE: 12/6/2023