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MAY 25 2004

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 20, 2004

PCB04-211

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Clinton Landfill, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT, COMPLAINT, and STIPULATION AND PROPOSAL FOR SETTLEMENT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas Davis", is written over a horizontal line.

Thomas Davis, Chief
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

TD/pp
Enclosures

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MAY 25 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
)
 Complainant,)
)
 vs.)
)
 CLINTON LANDFILL, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 04-211

NOTICE OF FILING

To: Brian Meginnes
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602-1153

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

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

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: May 20, 2004

CERTIFICATE OF SERVICE

I hereby certify that I did on May 20, 2004, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT, COMPLAINT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: Brian Meginnes
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602-1153

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

Thomas Davis, Chief
Assistant Attorney General

This filing is submitted on recycled paper.

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MAY 25 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
v.)
)
CLINTON LANDFILL, INC.,)
an Illinois corporation,)
)
Respondent.)

PCB No. 04-211
(Enforcement)

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) (2002), 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) (2002). In support of this motion, Complainant states as follows:

1. A Complaint is being filed contemporaneously with this motion.
2. The parties have recently reached an agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, also 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) (2002).

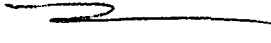
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby request that the Board grant this motion for relief from the hearing requirement set forth in Section

31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-7968
Dated: May 19, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAY 25 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
CLINTON LANDFILL, INC.,)
an Illinois corporation,)
)
Respondent.)

PCB No. 04-211
(Enforcement)

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CLINTON LANDFILL, INC., as follows:

COUNT I

**HAZARDOUS WASTE DISPOSAL AT A
NON-HAZARDOUS WASTE DISPOSAL SITE**

1. This Complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, the Attorney General of the State of Illinois, by her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2000).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2000), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. Respondent, Clinton Landfill, Inc., ("Clinton") is an Illinois corporation in good standing. Its Registered Agent is Brian Meginnes, 416 Main Street, Suite 1400, Peoria, Illinois 61602.

4. The Respondent is a permitted, municipal solid waste landfill located on Route 51,

Clinton, DeWitt County, Illinois.

5. The Respondent's facility is an existing municipal solid waste and non-hazardous special waste landfill operating pursuant to Illinois EPA approved operating permit number 1996-102-LFM, modified in 2000 with permit modification number 2000-132.

6. On September 15, 2000, the Illinois EPA conducted a multi-media RCRA inspection at Alloy Engineering and Casting in Champaign, Illinois ("Alloy"). During the inspection, the Illinois EPA inspectors collected samples of bag-house dust from seven dust collectors in the facility.

7. Additional samples were taken on September 28, 2000, (at Alloy's Counter Gravity Casting bag-house), and also on October 6, 2000, and October 19, 2000.

8. Sample results indicated two of the seven waste streams were hazardous for heavy metals. Results indicate that these waste streams exceeded the TCLP limits for selenium, as well as the TCLP regulatory threshold for lead.

9. Subsequent to the September 28, 2000, inspection, Alloy identified 19 waste streams generated at the facility. Alloy had analysis completed and made hazardous waste determinations on all 19 of them at the point of generation. The dust from the same two bag-houses again tested TCLP hazardous.

10. The following table identifies various sample results taken from the two bag-houses:

Date		Sample No.	Constituent	Sample results	Regulatory Lev.*
09/15/00	IEPA	X 104 -TCLP (1)	Lead	33.0 MG/L	5.0 MG/L
09/15/00	IEPA	X 107 -TCLP (2)	Selenium	1.2 MG/L	1.0 MG/L
09/15/00	IEPA	X 104 -TCLP ** (1)	Lead	45.3 MG/L	5.0 MG/L
09/15/00	IEPA	X 107 -TCLP ** (2)	Selenium	1.12 MG/L	1.0 MG/L
09/28/00	IEPA	X 101 -TCLP (1)	Lead	17 MG/L	5.0 MG/L
09/28/00	IEPA	X 101-2-TCLP** (1)	Lead	32.9 MG/L	5.0 MG/L
10/06/00	Alloy	108395-9 TCLP (2)	Selenium	.529 MG/L	1.0 MG/L

10/19/00	Alloy	001020F-TCLP (2)	Selenium	1.10 MG/L	1.0 MG/L
10/19/00	Alloy	0010201-TCLP (1)	Lead	54.7 MG/L	5.0 MG/L

* 35 Ill. Adm. Code 721

**Split sample analyzed by Prairie Analytical; (1)=Arc Furnace, (2)=CGC bag-house

11. During the September 28, 2000, inspection, the Illinois EPA discovered that the waste from all processes in the facility (19 separate waste streams), including the hazardous bag-house dust, were being placed in common dumpsters and disposed of as non-hazardous, special wastes at Clinton landfill. The waste was all manifested as foundry sand. A waste profile created by Alloy indicated that the waste was non-hazardous. The waste profile had been generated by taking a composite sample from one of the dumpsters and not from the point of generation of each waste as required by regulations.

12. After being first notified of the sample results, Alloy immediately began segregating the hazardous waste dust and began managing it as a hazardous waste. Since September 26, 2000, Alloy has manifested the waste generated off-site as a hazardous waste and has sent it to a hazardous waste landfill near Peoria, Illinois.

13. Since September 26, 2000, Alloy's records indicate that as much as 3/4 ton per month of hazardous waste bag-house dust has been produced. Based on information obtained from Alloy, the processes producing this dust have not basically changed since March of 1999. Consequently, as much as 3/4 ton per month of hazardous waste bag-house dust has been improperly disposed of each month since March 1999.

14. For calendar year 1999, manifests indicate that Clinton accepted waste from Alloy on March 3, 8, 15, 16, 29, 30 and 31; April 5, 6, 8, 9, 12-16, 19-23 and 26-30; May 3-7, 10-14, 17-21, and 24-28; June 1-4, 7, 15, 17, 21, 22, 24, 26 and 29; July 1, 6, 9, 12, 16, 22, 24 and 27; August 4, 10, 17, 26 and 30; September 3, 9, 16, 21 and 23; October 1, 5, 7, 13, 15 and 18-21; November 3, 4, 9, 12, 17 and 19; and December 9, 16, 17, 20, 22, 27 and 28.

15. For calendar year 2000, manifests indicate that Clinton accepted waste from Alloy on January 5, 13, 18, 24, 25 and 28; February 2, 9, 15, 16, 22, 25 and 28; and March 6, 7, 8, 13, 16 and 17.

16. Additionally, on September 25, 2000, Clinton accepted for disposal five drums of waste materials from Scherer Industrial Group, Inc. ("Scherer"), one or more of which contained hazardous waste. One drum of hazardous waste solvent from Scherer was subsequently found and removed from the Clinton landfill.

17. Section 21 of the Act, 415 ILCS 5/21 (2000), provides in relevant part:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; provided, however, that, except for municipal solid waste landfill units that receive waste on or after October 9, 1993, no permit shall be required for (i) any person conducting a waste-storage, waste-treatment, or waste-disposal operation for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generated, or (ii) a facility located in a county with a population over 700,000, operated and located in accordance with Section 22.38 of this Act, and used exclusively for the transfer, storage, or treatment of general construction or demolition debris;

* * *

e. Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulation and standards thereunder.

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

1. without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
2. in violation of any regulations or standards adopted by the Board under this Act; or

* * *

18. By permitting the disposal of hazardous waste bag-house dust from Alloy and hazardous waste solvent from Scherer at the Clinton landfill, a site that does not meet the requirements of the Act and of the regulations and standards thereunder for the storage and disposal of hazardous waste, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2000).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Clinton Landfill, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2000), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred on or after July 1, 1990, and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), award to Complainant

its costs and reasonable attorney's fees; and

- F. Granting such other relief as the Board may deem appropriate.

COUNT II

PERMIT VIOLATIONS

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count II.

- 18. Permit Number 1996-102, Modification 15, provides in relevant part:

* * *

III.1 This facility is authorized to accept non-hazardous special waste that meets the definition of industrial process waste or pollution control waste as found in Section 3.17 and 3.27, respectively, of the Act.

* * *

III.2.f The operator of this solid waste facility shall not conduct the operation in a manner which results in acceptance of hazardous waste.

* * *

- 19. Section 3.17 of the Act, 415 ILCS 5/3.17 (2000) provides the following definition:

“INDUSTRIAL PROCESS WASTE” means any liquid, solid, semi-solid, or gaseous waste generated as a direct or indirect result of the manufacture of a product or the performance of a service. Any such waste which would pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means is an industrial process waste. “Industrial Process Waste” includes but is not limited to spend pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes (including but not limited to ash resulting from the incineration of potentially infectious medical waste), core sands, metallic dust sweepings, asbestos dust, and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris.

- 20. By accepting hazardous industrial process waste without proper authorization included in the permit, the Respondent has violated Condition III.1 of Permit Number 1996-102,

Modification 15.

21. By conducting the operation of the Clinton landfill in a manner that results in acceptance of hazardous waste, the Respondent has violated Condition III.2.f of Permit Number 1996-102, Modification 15.

22. By conducting a waste-storage, waste-treatment, or waste-disposal operation in violation of conditions imposed within its operating permit, the Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2000).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Clinton Landfill, Inc.:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2000), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred on or after July 1, 1990, and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), award to Complainant its costs and reasonable attorney's fees; and

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

COUNT III

FAILURE TO ATTAIN REQUIRED PERMITS

1-17. Complainant alleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count III.

18. Section 703.121 of the Board's Waste Disposal regulations, 35 Ill. Adm. Code 703.121, provides, in relevant part:

a. No person shall conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation:

1. Without a RCRA permit for the HWM (hazardous waste management) facility;

* * *

b. Owners and operators of HWM units shall have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units and waste pile units that received wastes after July 26, 1982, or that certified closure (according to 35 Ill. Adm. Code 725.215) after January 26, 1983, shall have post-closure care permits, unless they demonstrate closure by removal or *decontamination*, as provided under Sections 703.159 and 703.160, or *obtain* enforceable documents containing *alternative requirements, as provided under Section 703.161*. If a post-closure care permit is required, the permit must address applicable 35 Ill. Adm. Code 724 groundwater monitoring, unsaturated zone monitoring, corrective action, and post closure care requirements.

* * *

19. By conducting a hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation without a RCRA permit for the facility, the Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2000) and Section 703.121 of the Board's Waste Disposal regulations, 35 Ill. Adm. Code 703.121.

20. By conducting a hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation in violation of regulations or standards adopted by the Board, the

Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2000).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Clinton Landfill, Inc.:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2000), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred on or after July 1, 1990, and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;


E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), award to Complainant its costs and reasonable attorney's fees; and

F. 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

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 5/19/04

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

CLINTON LANDFILL, INC.,
an Illinois corporation,

Respondent.

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) PCB No. 04-211
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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, Clinton Landfill, Inc., ("Clinton") do hereby agree to this Stipulation and Proposal for Settlement. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held. The parties agree that this Settlement is a compromise of a disputed claim. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation and Proposal for Settlement, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this agreement by the parties hereof. Notwithstanding the previous sentence, this Stipulation and Proposal for Settlement and any Illinois Pollution Control Board ("Board") order accepting the same may be used as a matter of record in any future permitting or enforcement action to be considered for purposes of Sections 39(i) and 42(h) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/39(i), 42(h) (2000). This agreement shall be null and void unless the

Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 *et seq.* (2000).

II.

AUTHORIZATION

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

III.

APPLICABILITY

This Stipulation and Proposal for Settlement shall apply to and be binding upon the Complainant and Respondent, and on any officer, director, agent, employee or servant of Respondent, as well as any successors and assigns of Respondent. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Settlement the failure of its officers, directors, agents, servants, employees, successors or assigns to take such action as shall be required to comply with the provisions of this settlement.

IV.

STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois, brings this action on her own motion, as well as at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the statutory authority vested under Section 31 of the Act, 415 ILCS 5/31 (2000).

2. The Illinois EPA is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2000), which is charged, inter alia, with the duty of enforcing the Act.

3. Respondent, Clinton Landfill, Inc., is an Illinois corporation in good standing. Its registered agent is Brian Meginnes, 416 Main Street, Suite 1400, Peoria, Illinois 61602.

B. Facility Description

The Respondent is a permitted, municipal solid waste landfill located on Route 51, Clinton, DeWitt County, Illinois. The Respondent's facility is an existing municipal solid waste and non-hazardous special waste landfill operating pursuant to Illinois EPA approved operating permit number 1996-102-LFM, modified in 2000 with permit modification number 2000-132.

C. Noncompliance

Complainant alleges that the Respondent has violated the following provisions of the Act, Board Regulations and Permit Conditions:

1. Count I: By accepting the disposal of hazardous waste bag-house dust from Alloy Engineering and Casting and hazardous waste solvent from Scherer Industrial Group, Inc. at the Clinton landfill, a site that does not meet the requirements of the Act or the Board regulations and standards thereunder for the storage and disposal of hazardous waste, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e)(2000).

2. Count II: a. By accepting hazardous industrial process waste without proper authorization included in its permit, the Respondent has violated Condition II.1 of Permit Number 1996-102-LFM Modification 15;

b. By conducting the operation of the Clinton landfill in a manner that results in the acceptance of hazardous waste, the Respondent has violated Condition III.2(f) of Respondent's Permit Number 1996-102-LFM Modification 15; and

c. By conducting a waste storage, waste treatment, or waste disposal operation in violation of Clinton's operating permit, the Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2000).

3. Count III:

a. By conducting a hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation without a Resource Conservation and Recovery Act ("RCRA") permit for the facility, the Respondent has violated Sections 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(2000) and Section 703.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121.

b. By conducting a hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation in violation of any regulations or standards adopted by the Board, the Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2000).

V.

FUTURE PLANS OF COMPLIANCE

Respondent shall cease and desist from future violations of the Act and Board Regulations, including but not limited to, those Sections of the Act and Board Regulations that

were the subject matter of the Complaint as outlined in Section IV. C. of this Stipulation and Proposal for Settlement.

VI.

IMPACT ON THE PUBLIC RESULTING FROM NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2000), 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 state:

1. The purpose of excluding hazardous waste from the landfill and compliance with Permit Conditions is to protect the public from the threat of or actual land and water pollution;
2. The parties agree that Respondent's landfill operation is of social and economic benefit;
3. The parties agree that Respondent's landfill operation is located in a suitable area;
4. Complainant alleges that the acceptance of hazardous waste at this facility is strictly prohibited, regardless of intent, and in this case it was practical and economically

reasonable for Respondent to prevent the acceptance of the hazardous waste. Respondent maintains that it had no knowledge that the hazardous waste was accepted at the landfill; and

5. Respondent implemented preventative measures subsequent to the violations that are the subject of the Complaint in this matter; Respondent removed the drum of hazardous waste solvent from the landfill and implemented screening procedures for special waste customers, conducted employee training, and continues to randomly check loads in accordance with its Permit.

VII.

CONSIDERATION OF SECTION 42 (h) FACTORS

Section 42 (h) of the Act, 415 ILCS 5/42(h) (2000), provides as follows:

In determining the appropriate civil penalty to be imposed under subdivisions (a), (b) (1), (b) (2), or (b) (3) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project, which means an environmentally beneficial project that a respondent

agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the parties state as follows:

1. The Respondent engaged in the practice of relying upon the generators non-hazardous waste determination based on analysis and testing for the acceptance of waste in the form of bag house dust since at least March 1999 and continuing through dates better known to the Respondent. In addition, the Respondent engaged in the practice of relying upon the generators non-hazardous waste determination based on analysis and testing for the acceptance of waste in the form of a drum of waste solvent since at least September 2000 and continuing through dates better known to the Respondent;

2. Respondent implemented preventative measures subsequent to the alleged violations that are the subject of the Complaint in this matter; Respondent implemented screening procedures for special waste customers, conducted employee training, and continues to randomly check loads in accordance with its permit. Respondent suggests that it had no knowledge that hazardous waste was accepted at the landfill. In particular, the Respondent offers that it had no analytical information indicating that the bag house dust received at the facility was hazardous waste. Furthermore, the Respondent suggests in mitigation that when informed by the generator of the erroneous shipment of hazardous waste in the form of a drum of hazardous waste solvent, Respondent immediately notified the Illinois EPA and performed remediation of the area to remove the hazardous waste.;

3. The economic benefit accrued by the Respondent's noncompliance is the fees charged to accept such wastes. However, the wastes could have been shipped to the Respondent's permitted hazardous-waste disposal facility; thus, the Respondent's economic benefit is, at best, nominal;

4. The supplemental environmental project credit is a reasonable amount based on the violations in the Complaint, will serve to deter further violations of the Act and will aid in enhancing voluntary compliance with the Act; and

5. Respondent Clinton has no previously adjudicated violations of the Act.

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

7. The settlement of this matter includes a supplemental environmental project as set forth in Section VIII.2 of this Stipulation.

VIII.

TERMS OF SETTLEMENT

1. **NON-ADMISSION:**

The Respondent represents that it has entered into this Stipulation and Proposal for Settlement 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 this Stipulation shall not be interpreted as including such admission.

2. **SUPPLEMENTAL ENVIRONMENTAL PROJECT:**

In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is twenty-five thousand dollars (\$25,000.00) and will offset penalties sought by the State in this matter. The parties agree that this project shall consist of the following:

a. Respondent will provide the Complainant with landfill capacity for the disposal of 2,000 tons of waste ("Landfill Capacity").

b. The landfill capacity of municipal solid waste and non-hazardous special waste shall be at the municipal solid waste landfill located on Route 51, Clinton, DeWitt ("landfill").

c. Respondent represents that it is currently the owner and operator of the landfill and that there is sufficient remaining disposal capacity at the landfill to provide the Landfill Capacity; however, if prior to the time Complainant uses all of the Landfill Capacity, Respondent ceases to own or operate the landfill or if the Respondent determines that there is not sufficient disposal capacity at the landfill to dispose of the Landfill Capacity, then the Respondent shall pay the remaining amount of the SEP value into the Environmental Protection Trust Fund ("EPTF") as calculated under Subparagraph h(i) below.

d. Complainant shall notify Respondent that it intends to utilize all or a portion of the Landfill Capacity at least 7 business days prior to the date the Landfill Capacity will be needed. The Respondent and the Complainant will review the subject waste to determine the acceptability of the waste into the landfill in accordance with state, federal and local rules and regulations. All waste will be handled consistent with regulations for regulated asbestos containing material. Upon approval from the Respondent, the Complainant may schedule the shipments of waste into the landfill.

e. Upon disposal of the waste, Respondent shall prepare a gate receipt evidencing the amount of waste, in volume and weight, and the date of receipt. Copies of all of the receipts shall be forwarded to the parties named hereafter in Subparagraph i. In addition, the Respondent will provide reports to the parties named in Subparagraph i as to waste weights received and waste weights remaining on a quarterly basis.

f. Complainant shall use its best efforts to utilize the Landfill Capacity within five years from the date of a Board Order accepting this Stipulation ("five year period").

g. In the event that Complainant is unable to utilize the Landfill Capacity within the five year period then, at Respondent's sole option and after receipt of a written request from the Complainant as described below:

(i) Respondent may pay the remaining amount of the SEP value, as calculated under Subparagraph h(i) below; or

(ii) Respondent may extend the date up to two (2) years, but in no event shall the extension last longer than seven (7) years from the date of a Board Order accepting this Stipulation. The Complainant shall make a written request to Respondent to extend the date no later than 90 days prior to the expiration of the five year period. Respondent shall respond to the request within 30 days of receipt. In the event that Respondent determines to extend the date then the remaining amount of the SEP value, if any, at the date of the expiration of the extension period, as calculated under the formula in Subparagraph h(i) below, shall be due and owing within 60 days of the date of expiration of the extension period. In the event that Respondent determines not to extend the five year period then the remaining amount of the SEP value, as calculated in Subparagraph h(i) below, shall be due and owing within 120 days of written notice of the non-extension. Payment shall be made to the EPTF.

Non-payment of the SEP amount outstanding within this period of time will be subject to interest, as provided below. Failure by either Complainant to request an extension of time within the 90 days prior to expiration of the five year period shall not adversely impact Complainant's right to utilize the Landfill Capacity under this SEP or right to payment of any remaining amount of SEP value that may be due under Subparagraph h(i);

h. The remaining amount of the SEP value, described in Subparagraph g above, shall be calculated as follows:

(i) The remaining value of the SEP shall be the difference between the 2,000 tons of Landfill Capacity reserved for the Complainant and the amount of landfill

capacity utilized by the Complainant. A multiplier of \$20.00 per ton shall be applied to the remaining tons of Landfill Capacity that has not been used by the Complainant as taken from the gate receipts, provided, however, the remaining tons of Landfill Capacity shall not exceed 1,250 tons. In the event that the remaining tons of Landfill Capacity exceeds 1,250 tons, a multiplier of \$20.00 per ton shall be applied to 1,250 tons.

(ii) All amounts owed Complainant shall be paid by certified check payable to the Illinois Environmental Protection Agency for deposit in the Environmental Protection Trust Fund and delivered to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62702-9276

The name and number of the case and Respondent's FEIN shall appear on the face of the certified check.

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General
c/o Peggy Poitevint
Environmental Bureau
500 South Second Street
Springfield, IL 62706

i. For purposes of the notice provided for above, the parties may be notified by contact with the following persons or their designee:

For Complainant:
Dustin Burger
Illinois EPA
2125 South First Street
Champaign, IL 61820
217/278-5800

For Respondent:
Dennis Porter
Clinton Landfill, Inc.
Route 51
Clinton, IL
217/935-8028

3. **INTEREST:**

Pursuant to Section 42(g) of the Act, 415 ILCS 5/42 (g) (2000), interest shall accrue on any amount not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (a) (2000):

- a. Interest on unpaid amounts shall begin to accrue from the date the payment is due and continue to accrue to the date payment is received by the Illinois EPA;
- b. Where partial payment is made on any payment amount that is due, such partial payment shall be first applied to any interest on unpaid amounts then owing; and
- c. All interest on amounts owed Complainant shall be paid by certified check payable to the Illinois Environmental Protection Agency for deposit in the Environmental Protection Trust Fund and delivered to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62702-9276

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General
c/o Peggy Poitevint
Environmental Bureau
500 South Second Street
Springfield, IL 62706

The name and number of the case and Respondent's FEIN shall appear on the face of the certified check.

4. **PAYMENT, COLLECTION AND NOTIFICATION:**

For issues relating to the payment of the penalty, Respondent may be reached at the following address:

Clinton Landfill Inc.
c/o Mr. Ron Edwards
4700 N. Sterling Avenue
Peoria, Illinois 61615

IX.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects Respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and Board Regulations, 35 Ill. Adm. Code, Subtitle A through H.

X.

RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Illinois Attorney General, their agents and representatives, shall have right of entry to Respondent's facility which is the subject of this Stipulation and Proposal for Settlement at all-reasonable times, for the purposes of conducting inspections. In conducting any inspection of Respondent's facility, the Illinois EPA, its employees and representatives, and the Attorney General, their agents and representatives, may take any photographs, samples and collect information, as they deem necessary.

XI.

RELEASE FROM LIABILITY

In consideration of Respondent's completion of the SEP contained herein and its commitment to refrain from future violations of the Act and Board Regulations, Complainant releases, waives and discharges Respondent from any further liability or penalties for violations

of the Act and regulations which were the subject matter of the Complaint herein, upon the completion of all activities required hereunder and the payment of all monies owed. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with the Stipulation and Proposal for Settlement. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents 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. Any future liability for natural resources damage or for removal, cleanup, or remedial actions as a result of a release of hazardous substances or the liability of the Respondent under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Sections 9601-9675; and
- d. Liability or claims based on the Respondents failure to satisfy the requirements of this Consent Order.

Nothing in this Stipulation and Proposal for Settlement 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 or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written and enter an Order consistent with the terms herein.

AGREED:

FOR THE COMPLAINANT:

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

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

BY: _____

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Dated: 5/19/04

FOR THE RESPONDENT:

CLINTON LANDFILL, INC.

BY: _____

Dated: 5/17/04

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: _____

JOSEPH E. SVOBODA
Chief Legal Counsel

Dated: