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STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF GRUNDY )

RECEIVED

JUN 21 1977

BEFORE THE POLLUTION CONTROL BOARD

OF THE STATE OF ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS )  
and ENVIRONMENTAL PROTECTION )  
AGENCY, )

Complainants, )

v. )

PCB 76-107

CONSOLIDATED FREIGHTWAYS )  
CORPORATION OF DELAWARE, a )  
Delaware corporation, MICHIGAN )  
CHEMICAL CORPORATION, a Delaware )  
corporation, RED BALL MOTOR )  
FREIGHT, INC., a Delaware )  
corporation, HULCHER EMERGENCY )  
SERVICE, INC., an Illinois )  
corporation; CITY OF MORRIS, )  
ILLINOIS, a Municipal corpora- )  
tion, and ALBERT PFAFF, d/b/a )  
PFAFF CONSTRUCTION, )

Respondents. )

N O T I C E

TO: Mr. L. Bruce Goldberg  
Hearing Officer  
5100 West Touhy Avenue  
Skokie, Illinois 60076

Mr. William S. Hanley  
Soring, Northrup, Hanna,  
Cullen & Cochran  
820 Illinois Building  
Springfield, Illinois 62706

Mr. Harley Hutchins  
Mayer, Brown & Platt  
231 S. LaSalle Street  
Chicago, Illinois 60603

Mr. John L. Parker  
Parker & Henss  
39 South LaSalle Street  
Chicago, Illinois 60603

Mr. J. Richard Childers  
Peterson, Ross, Rall, Barber  
& Seidel  
135 South LaSalle Street  
Chicago, Illinois 60603

Mr. Frank Black  
City Attorney - City of Morris  
Box 148  
Morris, Illinois 60450

Mr. Stephen L. Corn  
Craig & Craig  
1807 Broadway Avenue  
Mattoon, Illinois 61938

Mr. John N. Rooks  
Hynds & Hynds  
224-1/2 Liberty Street  
Morris, Illinois 60450

PLEASE TAKE NOTICE that I have today filed with the Clerk of the Pollution Control Board of the State of Illinois, a Stipulation and Proposal for Settlement, a copy of which is attached hereto and herewith served upon you.

PEOPLE OF THE STATE OF ILLINOIS,

WILLIAM J. SCOTT  
Attorney General  
State of Illinois

BY: Jeffrey S. Herden  
JEFFREY S. HERDEN  
Assistant Attorney General  
Environmental Control Division  
188 West Randolph Street  
Suite 2315  
Chicago, Illinois 60601  
[312] 793-2491

DATED: June 21, 1977

STATE OF ILLINOIS)
) SS.
COUNTY OF GRUNDY )

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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ILLINOIS, a Municipal Corporation, )
and ALBERT PFAFF, d/b/a PFAFF )
CONSTRUCTION, )

Respondents.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

NOW COME Complainants, PEOPLE OF THE STATE OF ILLINOIS and
the ENVIRONMENTAL PROTECTION AGENCY of the State of Illinois, by
WILLIAM J. SCOTT, Attorney General of the State of Illinois, and
Respondent CITY OF MORRIS, ILLINOIS, a Municipal Corporation, by
Frank Black, City Attorney, and hereby stipulate for settlement only,
pursuant to Rule 333 of the Procedural Rules of the Illinois Pollution
Control Board, the following forms the basis of an agreement between
the above-referenced parties hereto, and constitutes the recommended

disposition of the above action with reference to the City of Morris. The parties further represent that this statement is complete and is not modified by any other agreement, orally or in writing, as of the date of execution.

Stipulated Background Facts

1. Respondent, City of Morris ("Morris") at all times pertinent hereto, has been and is now a municipal corporation of the State of Illinois.

2. Morris, at all times pertinent hereto, has owned a tract of land located in the Southeast Quarter of the Southwest Quarter of Section 35, Township 35 North, Range 7, East of the Third Principal Meridian in Grundy County, Illinois.

3. The tract of land described in Paragraph 2 above is used as a landfill, and has been so used since at least November of 1949.

4. Since August, 1972, Morris retained one Albert Pfaff, a party to this proceeding, to operate the landfill.

5. On April 12, 1976, a Consolidated Freightways tractor-trailer combination was involved in an occurrence on Interstate Route 55, approximately two miles north of Illinois Route 47, in which approximately 200 quarts of bromine were spilled upon the ground. Subsequent to this occurrence, Consolidated Freightways employed Hulcher Emergency Service, Inc. to clean up the bromine.

Hulcher applied lime and water to the bromine, and, after such application, the bromine material, together with other debris from the occurrence, was transported to the Morris landfill for disposal and covering.

6. Subsequent to April 12, 1976, the bromine material and related debris was deposited at the Morris landfill. Morris had no prior knowledge that said bromine would be deposited at its landfill.

#### Permit Activity

On November 8, 1973, this Board found Morris in violation of the landfill permit requirements of the Environmental Protection Act, imposed a \$400.00 penalty, and ordered Morris to obtain the necessary permit. On December 31, 1973, Morris applied to the Environmental Protection Agency ("Agency") for a Development Permit, which was subsequently issued by the Agency.

On August 15, 1975, the Illinois Attorney General, at the request of the Agency, filed suit in the Grand Jury Circuit Court for an injunction requiring Morris to comply with the previous order of this Board, since Morris had not yet obtained the operating permit required by the November 8, 1973 order. That action is still pending as of the date of this document.

Morris did not obtain the required operating permit until July 30, 1976.

#### Alleged Violations

The Amended Complaint herein, filed June 3, 1976, alleged

in Count III, that Morris caused or allowed the use or operation of an existing solid waste management site without an operating permit issued by the Agency, in violation of Rule 202(b)(1) of this Board's Solid Waste Rules and Regulations, and in violation of Section 21(e) of the Environmental Protection Act ("Act"), Ill. Rev. Stat., ch. 111-1/2, par. 1021(e) (1975).

The Amended Complaint also alleged that Morris caused or allowed the acceptance of hazardous or liquid wastes at its landfill in violation of Rule 310(b) of the Board's Solid Waste Rules and Regulations, thereby violating Section 21(b) of the Act, Ill. Rev. Stat., ch. 111-1/2, par. 1021(b) (1975).

#### Morris Activity

Morris, prior to the time that the bromine waste was deposited at the subject landfill, did not exercise day-to-day control over the landfills operation. The contract with Albert Pfaff provided that Pfaff would retain all gate receipts and pay Morris \$1,200.00 per year to operate the landfill.

Since the filing of the Amended Complaint, Morris elected to revise its control over the operation of the landfill. From August 16, 1976, until March 28, 1977, Morris retained all gate receipts and paid \$2,640.00 per week to the landfill operator. From August 16, 1976, to March 28, 1977, a representative of Morris inspected the landfill site daily to insure that no unpermitted refuse was accepted and to insure that the operation complied with

the requirements of the Act and Board Regulations concerning solid waste disposal. Since March 28, 1977 Morris has operated the landfill with its own employees.

#### Violations

The parties hereto agree that the foregoing statements clearly show that Morris owned and operated a landfill without first obtaining an operating permit from the Agency, in violation of Rule 202(b)(1) of the Solid Waste Regulations, and in violation of Section 21(e) of the Act. This violation continued from July 27, 1974 through July 30, 1976.

The parties hereto further agree that the portion of the Amended Complaint alleging violations of Rule 310(b) of the Solid Waste Regulations be dismissed with prejudice.

#### Proposed Settlement

As a result of discovery taken herein and discussions between the parties to this document, it is hereby stipulated that the best interests of the public and of the parties hereto will be best served by the resolution of this enforcement proceeding under the terms and conditions provided herein. In accordance with the procedures for settlement prescribed by Rule 333 of the Pollution Control Board Procedural Rules, the parties offer this statement of facts and stipulation and the following proposed settlement in lieu of a full hearing on this matter.

WHEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between

the parties to this document, through their undersigned attorneys that:

1. Respondent, CITY OF MORRIS, be found in violation of Rule 202(b) of the Solid Waste Regulations, and in violation of Section 21(e) of the Environmental Protection Act, Ill. Rev. Stat., ch. 111-1/2, par. 1021(e) (1975).

2. The allegation of violation of Rule 310(b) of the Solid Waste Regulations be dismissed with prejudice.

3. A penalty of \$750.00 be assessed for the violations found herein.

4. All admissions and statements, whether oral or written made in any settlement or any negotiation or discussions of a settlement, are null and void and of no force or meaning and are not admissible before any judicial or administrative body, by any body and for any purpose, within the State of Illinois or otherwise, except in a proceeding arising out of this enforcement proceeding PCB 76-107, and in this proceeding only if the settlement agreed to by the parties is approved by the Board in all respects.

Respectfully submitted,

WILLIAM J. SCOTT  
Attorney General

BY: Jeffrey S. Heider

ENVIRONMENTAL PROTECTION AGENCY  
OF THE STATE OF ILLINOIS

BY: Leo Eisler by P.S.

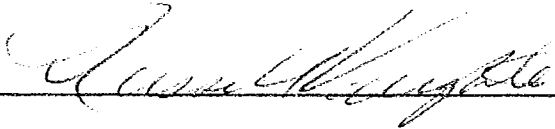


CITY OF MORRIS

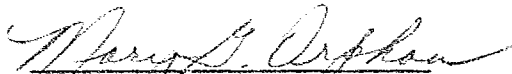
BY: Frank J Black

PROOF OF SERVICE

I, RUSSELL VAUGHTER, having been sworn and under oath, do state that I have this 21st day of June, 1977, served a copy of the foregoing Notice and Stipulation and Proposal for Settlement, upon the persons to whom said Notice is directed by posting same in envelopes first class mail and depositing with the United States Postal Service located at 160 North LaSalle Street, Chicago, Illinois 60601.

  
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SUBSCRIBED AND SWORN TO  
before me this 21st  
day of June, 1977.

  
\_\_\_\_\_  
Notary Public