

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
-vs-	)	PCB No.
	)	
ROCK RIVER BLENDING COMPANY,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**NOTICE OF ELECTRONIC FILING**

PLEASE TAKE NOTICE that we have today, June 29, 2010, filed the initial Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and accurate copy of the Complaint is attached herewith and served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the 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.

**NOTIFICATION**

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 *et seq.*] to correct the alleged pollution.

RESPECTFULLY SUBMITTED,

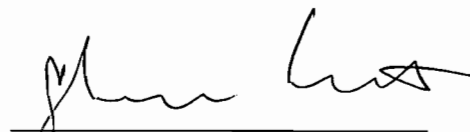
PEOPLE OF THE STATE OF ILLINOIS

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Attorney General of the  
State of Illinois

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	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, ROCK RIVER BLENDING COMPANY, as follows:

**COUNT I**  
**OPEN DUMPING OF WASTE**

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 the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2008).

2. The Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2008), and is charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board (“Board”).

3. Respondent, ROCK RIVER BLENDING COMPANY (“RRB”), is an Illinois corporation in good standing.

4. The Respondent owns and operates an industrial products & detergents manufacturing facility located at 1515 Cunningham Street, Rockford, Winnebago County, Illinois ("Site").

5. The Site is located in a light industrial area and contains a production building on the South end of the Site, and soil and vegetation on the North end of the Site property. Railroad tracks run along the North boundary of the property. Liberty Park is located across Cunningham Road to the South of the Site. A tributary of the Rock River is located within 1500 feet of the Site.

6. The Site has never been covered by an Illinois EPA-issued permit for the disposal of waste.

7. At the Site, the Respondent manufactures industrial laundry detergents, metal parts cleaners, and other formulated products. The cleaners and other products are produced by blending various mixtures of chemical raw materials including, but not limited to, hydrochloric acid, sulfuric acid, sodium hydroxide, glycol ethers, anionic surfactants, silicate compounds, and phosphate compounds.

8. Sulfuric acid and hydrochloric acid are corrosive and highly acidic. Aqueous solutions of hydrochloric acid and sulfuric acid have a pH as low as 1.

9. Aqueous solutions of caustic soda are corrosive and highly alkaline, with a pH as high as 14.

10. Liquid compounded cleaners and other products are produced in an on-site 220 gallon blending tank. After the raw materials are blended, most of the finished product is drained from the blending tank and packaged for sale. However a residual amount of waste remains in the tank after the tank is drained of product.

11. Beginning on or about May 1, 2000, the Respondent instituted a procedure whereby the residual waste material in the blending tank was diluted with water to remove the residual waste material from the sides and bottom of the tank, resulting in aqueous liquid waste products ("Residual Liquid Waste").

12. In the normal course of its business, from 2000 until 2008, Respondent RRB disposed of the Residual Liquid Waste by dumping the liquid onto the land at the rear (North) of the Site. The Residual Liquid Waste migrated down grade to the north, and was absorbed into the soil between the manufacturing building and the railroad property at the rear of the Site boundary.

13. On July 23, 2008, Illinois EPA inspectors visited the Site in response to a citizen complaint. They interviewed Dan McLoraine, the owner of Defendant RRB, who admitted that Respondent RRB had dumped corrosive liquid, in the form of the Residual Liquid Waste, at a rate of at least 100 gallons per month for a period of eight years. Mr. McLoraine advised that this practice had only been stopped a few months prior to the inspection.

14. On July 23, 2008 and July 28, 2008, Illinois EPA inspectors observed a concrete pad behind the manufacturing building at the Site that appeared to have been corroded by discharges of the Residual Liquid Waste.

15. On August 13, 2008, Illinois EPA sent a Violation Notice ("VN") to LRS by certified mail, return receipt requested. The VN alleged violations of the Act related to the dumping of Liquid Residual Waste at the Site.

16. On October 7, 2008, Illinois EPA and Respondent RRB held a meeting to discuss the August 13, 2008 VN. On October 8, 2008, Respondent RRB submitted a proposed Compliance Commitment Agreement ("CCA") to Illinois EPA. On October 20, 2008, Illinois

EPA sent a letter rejecting the proposed CCA to Respondent RRB by certified mail, return receipt requested.

17. On October 22, 2009, Illinois EPA sent a Notice of Intent to Pursue Legal Action to Respondent by certified mail, return receipt requested.

18. Section 21(a) of the Act, 415 ILCS 5/21(a) (2008), provides, in pertinent part, as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

\* \* \*

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), provides, as follows:

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

20. Respondent RRB, an Illinois corporation, is a “person” as that term is defined in the Act.

21. Section 3.535 of the Act, 415 ILCS 5/3.535 (2008), provides, in pertinent part, as follows:

“WASTE” means any garbage...or any other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....

22. Sections 3.385 of the Act, 415 ILCS 5/3.385 (2008), provides, as follows:

“REFUSE” means waste.

23. Respondent RRB disposed of Residual Liquid Waste by discarding the waste

behind the building at the Site. The Residual Liquid Waste is “waste” as that term is defined by Section 3.353 of the Act, and therefore also “refuse” as defined by Section 3.385 of the Act, 415 ILCS 5/3.353 and 5/3.385 (2008).

24. Section 3.185 of the Act, 415 ILCS 5/3.185 (2008), provides, as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

25. Section 3.460 of the Act, 415 ILCS 5/3.460 (2008), provides, as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

26. Respondent RRB caused the deposit of waste at the Site in a manner that exposed the waste to air and to the environment. The Site is therefore a “disposal site” as defined and applied in the Act.

27. Section 3.305 of the Act, 415 ILCS 5/3.305 (2008), provides, as follows:

“OPEN DUMPING” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

28. Section 3.445 of the Act, 415 ILCS 5/3.445 (2008), provides, in pertinent part, as follows:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L 94-580,....

29. The Site was not, and is not, permitted by the Illinois EPA for the disposal of waste, and thus did not fulfill the requirements of a sanitary landfill, as defined in the Act.

30. By discarding the Residual Liquid Waste onto the ground at the Site, Respondent RRB caused and allowed the open dumping of waste, and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ROCK RIVER BLENDING COMPANY, on Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(a) of the Act;
3. Ordering the Respondent to cease and desist from future violations of Section 21(a) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 21(a) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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**  
**CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT**

1-27. Plaintiff realleges and incorporates by reference herein, paragraphs 1 through 17,



paragraphs 19 through 26, and paragraphs 28 through 29, of Count I, as paragraphs 1 through 27 of this Count II.

28. From 2000 until 2008, Respondent RRB disposed of Residual Liquid Waste at the Site. The Respondent caused and allowed the above-described waste to be deposited on the ground in such manner that the waste could enter the environment, be emitted into the air, or discharged into waters, including ground waters.

29. Section 21(d) of the Act, 415 ILCS 5/21(d) (2008), provides, in pertinent part, as follows:

No person shall:

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:
  1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit.
  2. In violation of any regulations or standards adopted by the Board under this Act;

30. From 2000 until 2008 Respondent RRB caused or allowed the disposal of waste at the Site, and thereby conducted a waste disposal operation, without having applied for or obtained a permit from Illinois EPA.

31. Respondent RRB, by its actions as alleged herein, violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ROCK RIVER BLENDING COMPANY, on Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(d)(1) of the Act;
3. Ordering the Respondent to cease and desist from future violations of Section 21(d)(1) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 21(d)(1) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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 III**  
**CONDUCTING A HAZARDOUS WASTE DISPOSAL**  
**OPERATION WITHOUT A RCRA PERMIT**

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 Illinois EPA pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2008).

2-18. Complainant realleges and incorporates by reference herein Paragraphs 2 through 17, and Paragraphs 19 through 20, of Count I, as Paragraphs 2 through 18 of this Count III.

19. The Site has never been covered by a Resource Conservation and Recovery Act (“RCRA”) permit for the treatment, storage, or disposal of hazardous waste.

20. From 2000 until 2008, Respondent RRB generated and disposed of waste, in the form of the Residual Liquid Waste, at the Site. The Residual Liquid Waste contained aqueous solutions of sodium hydroxide, sulfuric acid, and hydrochloric acid. On information and belief, certain blends of the Residual Liquid Waste dumped at the Site had a pH above 12.5, and certain blends had a pH below 2.

21. On or about July 25, 2008, the Respondent began shipping the Residual Liquid Waste off-site for disposal. In its shipping documents, the Respondent described the material as “waste corrosive liquid”, with a waste code of D002.

22. On or about July 25, 2008, the Respondent submitted an application for a Site Identification Number to the United States Environmental Protection Agency (“USEPA”). In its application, the Respondent admitted that it was a generator of hazardous waste. The Respondent identified the type of waste generated at the Site under the USEPA Hazardous Waste Code D002, which represents corrosive hazardous waste.

23. Section 21(f) of the Act, 415 ILCS 5/21(f) (2008), provides, as follows:

No person shall:

- 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;

\* \* \*

24. Pursuant to authority granted under Section 5 of the Act, the Board has adopted standards regulating, *inter alia*, hazardous waste management facilities, and the disposal of hazardous waste, codified at 35 Ill. Adm. Code Parts 700 through 750 (“Board Hazardous Waste regulations”).

25. Section 703.121 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

**Section 703.121 RCRA Permits**

a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:

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

\* \* \*

b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit....

26. Section 721.102 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part, as follows:

**721.102 Definition of Solid Waste**

a) Solid waste.

1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.

2) A discarded material is any material that is A) abandoned, as explained in subsection (b) of this Section;

\* \* \*

b) A material is a solid waste if it is abandoned in one of the following ways:

1) It is disposed of;

\* \* \*

27. The Respondent disposed of the Residual Liquid Waste by dumping it behind the production facility at the Site. The Residual Liquid Waste dumped at the Site is "solid waste" as defined in Section 721.102 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 721.102. The Respondent is a generator of solid waste.

28. Section 721.103 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 721.103 provides, in pertinent part, as follows:

**Section 721.103 Definition of Hazardous Waste**

a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:

1) It is not excluded from regulation as a hazardous waste pursuant to Section 721.104(b); and

2) It meets any of the following criteria:

A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part....

\* \* \*

29. Subchapter C of the Board Hazardous Waste regulations, 35 Ill. Adm. Code, Subtitle G, Chapter I, Subchapter c, Subpart C, provides, in pertinent part, as follows:

**SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE**

**Section 721.120 General**

- a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

\* \* \*

- 30. Section 721.122 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

721.122 provides, in pertinent part, as follows:

**Section 721.122 Characteristic of Corrosivity**

- a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:
  - 1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040C (pH Electrometric Measurement) in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

\* \* \*

- b) A solid waste that exhibits the characteristic of corrosivity has the USEPA hazardous waste number of D002.

31. As admitted by Respondent in its July 25, 2008 application to USEPA, the Respondent generates corrosive hazardous waste, which is currently treated and disposed off-site.

32. On information and belief, the Residual Liquid Waste disposed of at the Site included aqueous waste with a pH below 2, and also aqueous waste with a pH of 12.5 or higher, and was therefore 'hazardous waste' as that term is defined and used in the Board Hazardous Waste regulations.

33. Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

\* \* \*

“Generator” (RCRA) means any person, by site location, whose act or process produces hazardous waste.

\* \* \*

“Hazardous waste management facility ("HWM facility")" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing or disposing of "hazardous waste". A facility may consist of several "treatment", "storage" or disposal" operational units (for example, one or more landfills, surface impoundments or combinations of them).

\* \* \*

34. Respondent RRB is a “generator” of solid waste, and “generator” of hazardous waste as that term is defined in Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110.

35. The Site was used for the disposal of hazardous waste, and is therefore a “hazardous waste management facility” as that term is defined in Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110.

36. The Respondent owns and operates the Site, and is therefore the owner and operator of a hazardous waste management facility, and all operational units contained therein, including disposal units.

37. The Respondent disposed of hazardous waste at the Site, and thereby conducted a hazardous waste disposal operation.

38. By conducting a hazardous waste disposal operation without a RCRA Permit, the Respondent violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2008), and Section 703.121 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 703.121.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count III:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(f)(1) of the Act and 35 Ill. Adm. Code 703.121;
3. Ordering the Respondent to cease and desist from any further violation of Section 21(f)(1) of the Act and 35 Ill. Adm. Code 703.121;
4. Ordering the Respondent to perform closure of the Site in accordance with 35 Ill. Adm. Code, Part 724, Subpart G;
5. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f)(1) of the Act and 35 Ill. Adm. Code 703.121;
6. Ordering the Respondent to pay all costs, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
7. Granting such other relief as the Board deems appropriate and just.

**COUNT IV**  
**FAILURE TO OBTAIN A USEPA IDENTIFICATION NUMBER**

1-37. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 37 of Count III as paragraphs 1 through 37 of this Count IV.



38. Beginning on or about May 1, 2000, Respondent RRB began generating corrosive hazardous waste, and disposing of hazardous waste at the Site. However, Respondent RRB did not apply for or obtain a USEPA Identification Number for the Site until July 25, 2008.

39. Section 722.112 of the Board Hazardous Waste Regulations, 35 Ill. Adm. Code 722.112, provides, in pertinent part, as follows:

**Section 722.112 USEPA Identification Numbers**

- a) A generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received a USEPA identification number from USEPA.

40. From approximately May 1, 2000 until approximately July 25, 2008, Respondent RRB disposed of hazardous waste without having received an identification number from the USEPA. The Respondent thereby violated Section 722.112 of the Board Hazardous Waste Regulations, 35 Ill. Adm. Code 722.112, and thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count IV:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.112;
3. Ordering the Respondent to cease and desist from any further violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.112;

4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.112;
5. Ordering the Respondent to pay all costs, 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 V**  
**FAILURE TO PERFORM A SPECIAL WASTE DETERMINATION**

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 Illinois EPA pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2-29. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 29 of Count II as paragraphs 2 through 29 of this Count V.

30. Respondent RRB began generating waste at the Site on or about May 1, 2000, but did not evaluate or test the waste to determine whether it was a special or hazardous waste until approximately July 25, 2008.

31. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

**Section 808.121      Generator Obligations**

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

32. From approximately May 1, 2000 until approximately July 25, 2008, Respondent RRB generated waste at the Site, but failed to make a determination whether the waste was special waste. Respondent RRB thereby violated Section 808.121(a) of the Pollution Control Board regulations, 35 Ill. Adm. Code 808.121(a), and thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count V:

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

2. Finding that the Respondent has violated Section 21(d)(2) of the Act and 35 Ill. Adm. Code 808.121;

3. Ordering the Respondent to cease and desist from any further violation of Section 21(d)(2) of the Act and 35 Ill. Adm. Code 808.121;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 21(d)(2) of the Act, and 35 Ill. Adm. Code 808.121, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering the Respondent to pay all costs, 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 VI**  
**FAILURE TO PERFORM A HAZARDOUS WASTE DETERMINATION**

1-21. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 19, paragraph 24, and paragraph 27, of Count III, as paragraphs 1 through 21 of this Count VI.

22. Respondent RRB began generating solid waste at the Site on or about May 1, 2000, but did not evaluate or test the waste to determine whether it was a hazardous waste until approximately July 25, 2008.

23. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part, as follows:

**Section 722.111      Hazardous Waste Determination**

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

\*   \*   \*
- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
  - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
  - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 724 through 728, 733, and 739 for possible exclusions or restrictions pertaining to the management of the specific waste.

24. As a generator of solid waste, Respondent RRB was required to determine whether the Residual Liquid Waste generated at the Site qualified as hazardous waste using the procedure outlined in Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111.

25. By failing to test and evaluate the Residual Liquid Waste generated at the Site until approximately July 25, 2008, Respondent RRB violated Section 722.111 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.111, and thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count VI:

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

2. Finding that the Respondent has violated Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.111;

3. Ordering the Respondent to cease and desist from any further violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.111;

4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.111;

5. Ordering the Respondent to pay all costs, 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 VII**  
**IMPROPER DISPOSAL OF CORROSIVE LIQUID HAZARDOUS WASTE**

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 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2-36. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 24, and paragraphs 26 through 37, of Count III, as paragraphs 2 through 36 of this Count VII.

37. Respondent RRB disposed of the Residual Liquid Waste by dumping the liquid waste onto the ground behind the production building at the Site. The area where the material was dumped contained unprotected soil and vegetation. No liner had been installed to contain the liquid waste, or prevent the waste from migrating into soil, surface waters, or groundwater.

38. On information and belief, the Residual Liquid Waste dumped at the Site contained certain liquid mixtures which had a pH below 2, and other liquid mixtures with a pH above 12.5. These mixtures were hazardous waste based on their characteristic of corrosivity, and by being listed in 35 Ill. Adm. Code 721.122 as having the USEPA hazardous waste code D002.

39. Section 724.401 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.401, provides, in pertinent part, as follows:

**Section 724.401      Design and Operating Requirements**

- a) Any landfill that is not covered by subsection (c) of this Section or 35 Ill. Adm. Code 725.401(a) must have a liner system for all portions of the landfill (except for existing portions of such landfill). The liner system must have the following....

40. Section 720.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

720.110, provides, in pertinent part, as follows:

**Section 720.110 Definitions**

\* \* \*

“Landfill” means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

\* \* \*

41. The portion of the Site where the Residual Liquid Waste was dumped and disposed is a “landfill”, as that term is defined by Section 720.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 720.110.

42. Section 724.414 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

724.414, provides, in pertinent part, as follows:

**Section 724.414 Special Requirements for Bulk and Containerized Liquids**

a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited....

43. Section 728.137 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

728.137, provides, in pertinent part, as follows:

**Section 728.137 Waste-Specific Prohibitions: Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated**

a) The wastes specified in 35 Ill. Adm. Code 721.121 as D001 (and is not in the High TOC Ignitable Liquids Subcategory), and specified in 35 Ill. Adm. Code 721.122 as D002, that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or

that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. CWA-equivalent treatment means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation/sedimentation for metals, reduction of hexavalent chromium, or other treatment technology that can be demonstrated to perform equally or greater than these technologies.

44. Respondent RRB disposed of hazardous waste in an unlined hazardous waste landfill, and thereby violated Section 724.401 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.401, and thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

45. Respondent RRB disposed of bulk liquid hazardous waste in a hazardous waste landfill, and thereby violated Section 724.414(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.414(a), and thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

46. Respondent RRB disposed of liquid hazardous waste with an assigned hazardous waste code D002 through land disposal. Respondent RRB thereby violated Section 728.137 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 728.137, and thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count VII:

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

2. Finding that the Respondent has violated Section 21(f)(2) of the Act, and 35 Ill. Adm. Code Sections 724.401, 724.414, and 728.137;



3. Ordering the Respondent to cease and desist from any further violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code Sections 724.401, 724.414, and 728.137;

4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code Sections 724.401, 724.414, and 728.137;

5. Ordering the Respondent to pay all costs, 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 VIII**  
**FAILURE TO COMPLY WITH WASTE DISPOSAL**  
**REQUIREMENTS AND PROCEDURES**

1-36. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 36 of Count VII, as paragraphs 1 through 36 of this Count VIII.

37. From approximately May 1, 2000 until approximately July 23, 2008, Respondent RRB disposed of the Residual Liquid Waste at the Site without first developing a written waste analysis plan and without obtaining a chemical and physical analysis of a sample of the Waste Residual Products.

38. Section 724.113 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.113, provides, in pertinent part, as follows:

**General Waste Analysis**

a) Analysis:

1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 724.213(d), the owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. . .

\* \* \*

- b) The owner or operator must develop and follow a written waste analysis plan that describes the procedures that it will carry out to comply with subsection (a) of this Section. The owner or operator must keep this plan at the facility. . .

39. By failing to perform chemical and physical testing on the Residual Liquid Waste prior to disposal at the Site, Respondent RRB violated of Section 724.113(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.113(a).

40. By failing to develop and follow a written waste analysis plan, Respondent RRB violated Section 724.113(b) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.113(b).

41. On at least July 23, 2008 and July 28, 2008, access to the portion of the Site where the Residual Liquid Waste was dumped and disposed of was open and unsecured against unauthorized entry. Respondent RRB had not installed fences or physical barriers to prevent contact with the waste. No surveillance system had been installed, and RRB had not taken steps to obtain security guards. No sign containing the admonishment "Danger-Unauthorized Persons Keep Out" had been installed at the entrance to, or in the vicinity of, the area where the Residual Liquid Waste had been dumped. On information and belief, Respondent RRB had failed to take these access control and surveillance measures at any time from May 1, 2000 until at least July 28, 2008.

42. Section 724.114 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 724.114, provides, in pertinent part, as follows:

**Security**

- a) The owner or operator must prevent the unknowing entry, and minimize

the possibility for the unauthorized entry, of persons or livestock onto the active portion of the facility, unless the owner or operator demonstrates the following to the Agency:

- 1) That physical contact with the waste, structures or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock that may enter the active portion of a facility; and
  - 2) That disturbance of the waste or equipment, by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of the requirements of this Part.
- b) Unless the owner or operator has made a successful demonstration under subsections (a)(1) and (a)(2) of this Section, a facility must have the following:
- 1) A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; or
  - 2) Physical barriers.
- \* \* \*
- c) Unless the owner or operator has made a successful demonstration under subsections (a)(1) and (a)(2) of this Section, a sign with the legend, "Danger - Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility, and at other locations....

43. By failing to take measure to prevent unauthorized access to the waste disposal area, by failing to provide for surveillance or physical barriers, and by failing to install signs meeting the requirements of 35 Ill. Adm. Code 724.114 (c), Respondent RRB violated Sections 724.114(a), (b) and (c) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.114(a), (b) and (c).

44. On July 23, 2008 and July 28, 2008, Respondent RRB did not have a written schedule for inspection of the waste disposal area of the Site. On information and belief, from

approximately May 1, 2000 until at least July 23, 2008, Respondent RRB had failed to inspect the waste disposal area to identify possible releases of hazardous waste to the environment.

45. Section 724.115 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.115, provides, in pertinent part, as follows:

**General Inspection Requirements**

- a) The owner or operator must conduct inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to either of the following:
  - 1) Release of hazardous waste constituents to the environment....
- b) Inspection schedule.
  - 1) The owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.
  - 2) The owner or operator must keep this schedule at the facility.

\* \* \*

46. By failing to perform inspections of the waste disposal are at the Site, by failing to develop and follow a written schedule for inspection, and by failing to keep an inspection schedule at its facility, Respondent RRB violated Sections 724.115(a) and (b) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.115(a) and (b).

47. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop and implement a program to train its employees and other personnel in the proper management of hazardous waste.

48. Section 724.116 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.116, provides, in pertinent part, as follows:

**Personnel Training**

- a) The personnel training program.
  - 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Part. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (d)(3) of this Section.

\* \* \*

49. By failing to develop and implement a program for Site employees and other personnel to be trained in the management and disposal of hazardous waste, Respondent RRB violated Section 724.116(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.116(a).

50. From approximately May 1, 2000 until at least July 28, 2008, Respondent RRB disposed of hazardous waste, in the form of Residual Liquid Waste by dumping the waste on the ground at the rear of the Site. The waste was not contained in any fashion, but was allowed to migrate directly into soil and groundwater. Respondent RRB did not design, construct, maintain or operate either the area where the hazardous waste was generated or the area where the hazardous waste was disposed, to prevent the release of the hazardous waste to surface water, groundwater, or soil, or otherwise to prevent the discharged waste from threatening human health or the environment.

51. Section 724.131 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.131, provides as follows:

**Design and Operation of Facility**

Facilities must be designed, constructed, maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

52. By failing to design, maintain, or operate its production or disposal operations in such way as to prevent the discharge of hazardous waste to the environment, Respondent RRB violated of Section 724.131 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.131.

53. From approximately May 1, 2000 until at least July 28, 2010, Respondent RRB had failed to install an internal communications or alarm system suitable for providing emergency instructions to Site personnel.

54. Section 724.132 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.132, provides as follows:

**Required Equipment**

All facilities must be equipped with the following, unless the owner or operator demonstrates to the Agency that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

- a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

\* \* \*

55. By failing to install and operate an internal emergency communication or alarm system at the Site, Respondent RRB violated Section 724.132 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.132.

56. From the date of commencing operations at the Site on approximately May 1, 2000, until at least July 28, 2008, Respondent RRB had failed to take steps to advise and

familiarize fire, police, emergency response, and local hospitals of the nature and type of waste generated and handled at the Site, nor the types of injuries or illnesses which could result from exposure to the hazardous waste through release, fire, or other unforeseen events at the Site.

57. Section 724.137 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.137, provides, in pertinent part, as follows:

**Arrangements with Local Authorities**

- a) The owner or operator must attempt to make the following arrangements as appropriate for the type of waste handled at the facility and the potential need for the services of these organizations:
  - 1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards....  

\* \* \*
  - 4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions or releases at the facility.

58. By failing to communicate and make arrangements with local police, fire, and emergency response teams regarding the hazardous waste generated and disposed at the Site, and by failing to advise local hospitals about possible injuries, Respondent RRB violated Section 724.137 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.137.

59. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop and keep a contingency plan containing actions to be taken in response to fire, explosions, or unplanned releases of hazardous waste from the Site.

60. Section 724.151 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

724.151, provides as follows:

**Purpose and Implementation of Contingency Plan**

- a) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
- b) The provisions of this plan must be carried out immediately whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

61. By failing to make and keep a plan for dealing with fires, explosions or releases of hazardous waste from the Site, Respondent RRB violated Section 724.151 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.151.

62. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to arrange for an employee or agent to be at the facility or on call for the purpose of coordinating emergency response measures.

63. Section 724.155 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.155, provides, in pertinent part, as follows:

**Section 724.155      Emergency Coordinator**

At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan....



64. By failing to arrange for or provide an employee or agent to be at the facility or on call, and who was familiar with the waste at the Site and necessary emergency measures, Respondent RRB violated Section 724.155 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.155.

65. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to make and keep an operating record describing the amount of hazardous waste generated and dates and details of its disposal at the Site.

66. Section 724.173 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.173, provides, in pertinent part, as follows:

**Operating Record**

- a) The owner or operator must keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows:
  - 1) A description and the quantity of each hazardous waste received and the methods and dates of its treatment, storage, or disposal at the facility, as required by Appendix A of this Part. This information must be maintained in the operating record until closure of the facility;

\* \* \*

67. By failing to make and keep an operating record containing the information required by of 35 Ill. Adm. Code 724.173, Respondent RRB violated Section 724.173 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.723.

68. Respondent RRB failed to submit an annual report describing its hazardous waste generation, handling, and disposal activities from March 1, 2001 through at least July 23, 2008.

69. Section 724.175 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

724.175, provides, in pertinent part, as follows:

**Annual Report**

The owner or operator must prepare and submit a single copy of an annual report to the Agency by March 1 of each year. The report form supplied by the Agency must be used for this report. The annual facility activities report must cover facility activities during the previous calendar year and must include the following information:

- a) The USEPA identification number, name, and address of the facility;
- b) The calendar year covered by the report;
- c) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;
- d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by USEPA identification number of each generator;
- e) The method of treatment, storage, or disposal for each hazardous waste;

\* \* \*

70. By failing to submit an annual report meeting the requirements of 35 Ill. Adm. Code 724.175 by March 1<sup>st</sup> of each year from 2001 through 2008, Respondent RRB violated Section 724.175 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.175.

71. On July 23, 2008, Respondent RRB was unable to produce a written plan for closure of the waste disposal area of the Site. On information and belief, from approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop a written closure plan.

72. Section 724.212 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.212, provides, in pertinent part, as follows:

**Closure Plan; Amendment of Plan**

- a) Written plan required.
  - 1) The owner or operator of a hazardous waste management facility must have a written closure plan....
  - 2) The Agency's approval of the plan must ensure that the approved closure plan is consistent with Sections 724.211 through 724.215 and the applicable requirements of Sections 724.190 et seq., 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701, and 724.1102. Until final closure is completed and certified in accordance with Section 724.215, a copy of the approved plan and approved revisions must be furnished to the Agency upon request, including requests by mail.

\* \* \*

73. By failing to develop a written closure plan, and by failing to provide a written plan to Illinois EPA upon request, Respondent RRB violated Section 724.212(a) of the Board Waste Hazardous Waste regulations, 35 Ill. Adm. Code 724.212(a).

74. On July 23, 2008, Respondent RRB was unable to produce a written plan for post-closure care of the waste disposal area of the Site. On information and belief, from approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop a written post-closure care plan..

75. Section 724.218(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.218(a), provides, in pertinent part, as follows:

**Post-Closure Care Plan; Amendment of Plan**

- a) Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure care plan.

76. RRB is the owner and operator of a hazardous waste disposal unit. By failing to make and keep a Post-Closure Care Plan for the waste disposal area of the Site, Respondent RRB violated Section 724.218(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.218(a).

77. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop, create, or update a written estimate of closure costs for the waste disposal area of the Site.

78. Section 724.242 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.242(a), provides, in pertinent part, as follows:

**Cost Estimate for Closure**

- a) The owner or operator must have detailed a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 724.211 through 724.215 and applicable closure requirements in Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701 through 724.703, and 724.1102.

79. By failing to develop and maintain an updated written estimate of the costs of performing closure of the waste disposal area of the Site, Respondent RRB violated Section 724.242(a) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.242(a).

80. From approximately May 1, 2000 until at least July 23, 2008, Respondent RRB failed to develop, create, or update a written estimate of post-closure care costs for the waste disposal area of the Site.

81. Section 724.244 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 724.244, provides, in pertinent part, as follows:

**Section 724.244 Cost Estimate for Post-Closure Care**

- a) The owner or operator of a disposal surface impoundment, disposal miscellaneous unit, land treatment unit, or landfill unit or the owner or operator of a surface impoundment or waste pile required under Sections 724.328 or 724.358 to prepare a contingent closure and post-closure plan must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in Sections 724.217 through 724.220, 724.328, 724.358, 724.380, 724.410, and 724.603.

82. The portion of the Site where the Residual Liquid Waste was dumped is a “landfill” as that term is defined and used in the Board Hazardous Waste regulations.

Respondent RRB is the “owner and operator” of a “landfill” unit.

83. By failing to develop, create, or update a written estimate of post-closure care costs for the waste disposal area of the Site, Respondent RRB violated Section 722.244 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.244.

84. By violating 35 Ill. Adm. Code Sections 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115 (b), 725.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.175, 724.212(a), 724.218(a), 724.242(a), and 724.244, Respondent RRB thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, ROCK RIVER BLENDING COMPANY, on Count VIII:

- 1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
- 2. Finding that the Respondent has violated Section 21(f)(2) of the Act, and 35 Ill. Adm. Code Sections 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a),

724.115 (b), 725.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.175, 724.212(a), 724.218(a), 724.242(a), and 724.244;

3. Ordering the Respondent to cease and desist from any further violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code Sections 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115 (b), 725.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.175, 724.212(a), 724.218(a), 724.242(a), and 724.244;


4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code Sections 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115 (b), 725.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.175, 724.212(a), 724.218(a), 724.242(a), and 724.244;

5. Ordering the Respondent to pay all costs, 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  
by LISA MADIGAN,  
Attorney General of the  
State of Illinois,

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

BY:  (ew)  
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Assistant Attorney General

OF COUNSEL:

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Chicago, IL 60602

(312) 814-3532

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
-vs-	)	PCB No.
	)	
ROCK RIVER BLENDING COMPANY,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**CERTIFICATE OF SERVICE**

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 29th day of June, 2010 the foregoing Complaint, and Notice of Filing upon the persons listed below, by certified mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT

Service List:  
Rock River Blending Co.  
c/o Dennis A. Potter, Registered Agent  
6116 Mulford Village Drive  
Rockford, IL 61107

James E. Meason, Attorney at Law  
113 W. Main Street  
Rockton, IL 61072-2419