

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

vs. )

PCB No.  
(Enforcement - Land)

ROXANA LANDFILL, INC., an Illinois )

corporation, MIDWEST SANITARY )

SERVICE, INC., an Illinois corporation, )

WRB REFINING LP, a Delaware limited )

partnership, and CONOCOPHILLIPS )

COMPANY, a Delaware corporation, )

Respondents. )

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on April 23, 2012, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT, STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO WRB REFINING, LP AND CONOCOPHILLIPS COMPANY ONLY, and STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO MIDWEST SANITARY SERVICE, INC., ONLY, copies of which are 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: *Rachel R. Medina*  
RACHEL R. MEDINA  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

**CERTIFICATE OF SERVICE**

I hereby certify that I did on April 23, 2012, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT, STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO WRB REFINING, LP AND CONOCOPHILLIPS COMPANY ONLY and STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO MIDWEST SANITARY SERVICE, INC., ONLY upon the persons listed on the Service List.



RACHEL R. MEDINA  
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

ConocoPhillips Company  
WRB Refining, LP  
c/o Donna H. Carvalho  
Senior Counsel  
McLean 2110  
600 North Dairy Ashford  
Houston, TX 77079

Roxana Landfill, Inc.  
c/o Brian Konzen  
Lueders, Robertson & Konzen LLC  
1939 Delmar Avenue  
P.O. Box 735  
Granite City, IL 62040-0735

Midwest Sanitary Service, Inc.  
c/o Rene Bassett Butler  
Bassett Law Office, P.C.  
16 W. Lorena Ave.  
Wood River, IL 62095

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

vs. )

PCB No.  
(Enforcement - Land)

ROXANA LANDFILL, INC., an Illinois corporation, )  
MIDWEST SANITARY )

SERVICE, INC., an Illinois corporation, )  
WRB REFINING LP, a Delaware limited )

partnership, and CONOCOPHILLIPS )  
COMPANY, a Delaware corporation, )

Respondents. )

**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) (2010), 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) (2010). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlements with all Respondents are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed 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) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: *Rachel R. Medina*  
RACHEL R. MEDINA  
Environmental Bureau  
Sr. Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 23, 2012



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 (2008), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. Roxana Landfill, Inc. ("Roxana") is an Illinois corporation. Roxana operates the Roxana Landfill which is located at 4601 Cahokia Road, Roxana, Madison County, Illinois 62084. The registered agent for Roxana is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

5. The Roxana Landfill is an existing municipal waste and non-hazardous special waste landfill operating pursuant to Illinois EPA operating permit number 1990-322-LF (Log. No. 2007-327), Modification No. 80.

6. The Roxana Landfill does not have a permit to accept hazardous waste.

7. Midwest Sanitary Service, Inc. is an Illinois corporation ("Midwest") located at 333 North Old St. Louis Road, Wood River, Madison County, Illinois. The registered agent for Midwest is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

8. Midwest is a transporter of non-hazardous, special and hazardous wastes.

9. WRB Refining, LP ("WRB") is a Delaware limited partnership. The registered agent for WRB is Corporation Service Company, 211 E. 7<sup>th</sup> St., Suite 620, Austin, TX 78701-3218. WRB owns the Conoco Phillips - Wood River Refinery ("COP Refinery") located at 900 South Central Avenue, Roxana, Illinois.

10. ConocoPhillips Company ("Conoco") is a Delaware corporation. The registered agent for Conoco is United States Corporation Co., 801 Adlai Stevenson Drive, Springfield, IL

62703. Conoco operates the Conoco Phillips - Wood River Refinery ("COP Refinery") located at 900 South Central Avenue, Roxana, Illinois.

11. The COP Refinery processes crude oil from various states and in the process generates several listed petroleum refining hazardous waste streams. The COP Refinery stages a number of different waste streams on-site for either recycling or disposal in a roll-off box loading and staging area along "K" Street, known as Site 12.

12. On August 28, 2009, a roll-off box containing approximately 9 cubic yards of petroleum oil-water separator sludge was staged at Site 12 and labeled "Coker slurry." The roll-off box had a vapor lid and was labeled with the number 20244.

13. Petroleum oil-water separator sludge is a listed hazardous waste stream, F037, under Section 721.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.131. The MSDS for petroleum oil-water separator sludge describes it as a dark gray or brown semi-solid with a petroleum odor.

14. On August 28, 2009, a roll-off box containing approximately 10 cubic yards of non-hazardous S-Zorb catalyst was staged at Site 12 and was labeled "Catalyst fines." The roll-off box had a vapor lid and was labeled with the number 20322.

15. The Allied Waste Non-Special Waste Acceptance Approval Recertification form for S-Zorb catalyst describes it as a gray fine powder similar to dust.

16. On August 28, 2009, a roll-off box containing non-hazardous S-Zorb refractory material was staged at Site 12. The roll-off box had a tarp cover and was labeled with the number 20445.

17. On August 28, 2009, on information and belief, a driver for Midwest was verbally instructed by a Midwest coordinator to pick up a vapor lid roll-off box containing non-hazardous catalyst fines. The COP Refinery Waste Tracking Receipt #002035 was provided to the driver and correctly identified the waste to be picked up as "Catalytic Cracking Precipitator Fines," but



incorrectly identified the number of the box as box number 20445, instead of box number 20322.

18. The Midwest driver failed to check the number of the box he picked up against the Waste Tracking Receipt and incorrectly picked up box number 20244 which contained the hazardous petroleum oil-water separator sludge.

19. On information and belief, the COP Refinery had a policy in place on August 28, 2009, which required the security guards at the gate entrances to the facility to confirm that the container number and waste of any container leaving the property match the description on the accompanying Waste Tracking Receipt.

20. On August 28, 2009, the COP security guard at the 5<sup>th</sup> Street gate failed to check the number on the roll-off box containing the petroleum oil-water separator sludge against the number on the Waste Tracking Receipt as required by COP policy.

21. The Midwest driver delivered roll-off box number 20244 to the Roxana Landfill.

22. On August 28, 2009, at 1:30 p.m., the Roxana Landfill issued ticket #863979 to Midwest for Reference #002035, incorrectly indicating receipt of a delivery of sand blasting media.

23. On August 28, 2009, on information and belief, Midwest returned empty roll-off box #20244 to Midwest where another employee discovered the roll-off box number for the empty roll-off box did not match the identification on the tracking receipt.

24. On August 28, 2009, Illinois EPA received notification from the National Response Center that the COP Refinery had shipped hazardous petroleum separation sludge in error from the COP Refinery to a non-hazardous waste facility.

25. On August 28, 2009, the COP Refinery dispatched a hazardous waste contractor to recover the waste delivered to Roxana Landfill. Approximately five (5) roll-off boxes of waste (approximately 75 cubic yards) were removed from the landfill and transported as hazardous waste to the COP Refinery's hazardous waste storage area by Midwest and eventually

disposed of as hazardous waste at Veolia Environmental Services, located at 7 Mobile St., Sauget, Illinois.

26. Condition II(2)(g) of Roxana's Permit 1990-322-LF, Page 6, Log 2009-145, Modification 80 ("Permit"), provides, as follows:

The operator of this solid waste facility shall not conduct the operation in a manner which results in acceptance of waste without necessary permits.

27. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (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....

28. By accepting hazardous waste for disposal in violation of Permit 1990-322-LF ("Permit"), Roxana violated Condition II(2)(g) of their Permit and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Roxana:

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

B. Finding that the Respondent has violated the Act and Permit 1990-322-LF as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

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

COUNT II

WASTE DISPOSAL WITHOUT RCRA PERMIT

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count II.

26. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008), provides as follows:

No person shall:

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

\*\*\*

(2) in violation of any regulations or standards adopted by the Board under this Act;

27. 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
- (2) in violation of any regulations or standards adopted by the Board under this Act;

28. Section 703.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), provides as follows:

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; or
- 2) In violation of any condition imposed by a RCRA permit.

29. By accepting hazardous waste for disposal without a RCRA permit for hazardous waste management, Roxana violated Section 703.121(a) of the Board's Waste Disposal Regulations and Section 21(f) of the Act, 415 ILCS 5/21(f) (2008).

30. By conducting a waste-disposal operation in violation of Board regulations, Roxana violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Roxana:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and Board regulations as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT III**

**SPECIAL WASTE VIOLATION**

1-26. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count II as paragraphs 1 through 26 of this Count III.

27. On August 28, 2009, Roxana accepted roll-off box #20244, containing petroleum oil-water separator sludge, from Midwest without a manifest for such waste.

28. Section 809.302(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a), provides, in pertinent part, as follows:

No person may accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter unless the special waste transporter has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates

the receiver's facility as the destination for the special waste....

29. "Special waste" is defined, in pertinent part, under Section 808.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, as follows:

"Special waste" means *any of the following*:

\*\*\*

*Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, ....*

\*\*\*

30. Oil-water separator sludge, a hazardous waste, is also a special waste as defined under Section 808.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110.

31. By accepting hazardous special waste for disposal without the appropriate manifest, Roxana violated Section 809.302(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(a).

32. By conducting a waste-disposal operation in violation of Board regulations, Roxana violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2008).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Roxana:

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

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

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

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

COUNT IV

FAILURE TO CONDUCT INSPECTIONS

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count IV.

21. On December 3, 2009, Illinois EPA received copies of random load checks for the time period between August 7, 2009 and November 25, 2009. The documentation indicates that inspections were not conducted the week of September 14, 2009 and between October 5 and October 16, 2009. The documentation also indicates that ten (10) out of the twelve (12) inspections between August 7, 2009 and November 25, 2009 were conducted on Fridays.

22. Condition II(9) of Roxana's Permit 1990-322-LF, Page 14, Log 2009-145, Modification 80, provides, as follows:

The operator shall implement a load check program that meets the requirements of 35 Ill. Adm. Code 811.323.

23. Section 811.323(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.323(c), provides as follows:

c) The load checking program shall consist of, at a minimum, the following components:

1) Random inspections

A) An inspector designated by the facility shall examine at least three random loads of solid waste delivered to the landfill on a random day each week. The drivers randomly selected by the inspector shall be directed to discharge their loads at a separate, designated location within the facility. The facility shall conduct a detailed inspection of the discharged material for any regulated hazardous or other unacceptable wastes that may be present. Cameras or other devices may be used to record the visible contents of solid waste shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

B) If regulated hazardous wastes or other unacceptable wastes are suspected, the facility shall communicate with the generator, hauler or other party responsible for shipping the waste to the facility to determine the identity of the waste.

2) Recording inspection results

Information and observations derived from each random inspection shall be recorded in writing and retained at the facility for at least three years. The recorded information shall include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record shall be signed by both the inspector and the driver.

3) Training

The solid waste management facility shall train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program shall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

24. By not examining at least three random loads on a random day each week, Roxana violated Section 811.323(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.323(c), and Condition II(9) of the Permit.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Roxana:

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

B. Finding that the Respondent has violated the Board regulations and Permit 1990-322-LF as alleged herein;

- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT V

SANITARY LANDFILL OPERATION VIOLATION

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count V.

26. Section 21(o)(7) of the Act, 415 ILCS 5/21(o)(7) (2008), provides, as follows:

No person shall:

\* \* \*

(o) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

\* \* \*

(7) acceptance of wastes without necessary permits;

27. "Sanitary landfill" is defined under Section 3.445 of the Act, 415 ILCS 5/3.445 (2008), 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, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

28. Roxana Landfill is a sanitary landfill as that term is defined under Section 3.445 of the Act, 415 ILCS 5/3.445 (2008).

29. By conducting a sanitary landfill operation which resulted in accepting hazardous waste without having a permit to accept hazardous waste, Roxana violated Section 21(o)(7) of the Act, 415 ILCS 5/21(o)(7) (2008).



PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Roxana:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

MIDWEST SANITARY SERVICE, INC.

COUNT VI

WASTE DISPOSAL VIOLATION

1-30. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 30 of Count III as paragraphs 1 through 30 of this Count VI.

31. Section 809.302(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(b), provides, in pertinent part, as follows:

No person may deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

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

No person shall:

\*\*\*

- (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 regulations and standards

thereunder.

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

No person shall:

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- (g) Conduct any hazardous waste-transportation operation:
  - (1) without registering with and obtaining a permit from the Agency in accordance with the Uniform Program implemented under subsection (1-5) of Section 22.2; or
  - (2) in violation of any regulations or standards adopted by the Board under this Act.

34. By delivering hazardous waste for disposal, treatment or storage at Roxana Landfill, Midwest violated Section 809.302(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(b), and Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

35. By conducting a hazardous waste-transportation operation in violation of Board regulations, Midwest violated Section 21(g) of the Act, 415 ILCS 5/21(g) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, MIDWEST:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and Board regulations as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT VII

TRANSPORTATION WITHOUT A MANIFEST

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I and paragraph 33 of Count VI as paragraphs 1 through 26 of this Count VII.

27. On August 28, 2009, Midwest accepted roll-off box #20244, containing oil-water separator sludge, from the COP Refinery without a manifest for such waste.

28. Section 723.120(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 723.120(a), provides, in pertinent part, as follows:

- (a) No acceptance without a manifest.
  - 1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123.....

29. By accepting oil-water separator sludge from WRB without a manifest for such hazardous waste, Midwest violated Section 723.120(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 723.120(a).

30. By conducting a hazardous waste-transportation operation in violation of Board regulations, Midwest violated Section 21(g) of the Act, 415 ILCS 5/21(g) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, MIDWEST:

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

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

- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

**WRB REFINING, LP and CONOCOPHILLIPS COMPANY**

**COUNT VIII**

**WASTE DISPOSAL VIOLATION**

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count VIII.

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

No person shall:

\*\*\*

- (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 regulations and standards thereunder.

27. By disposing of hazardous oil-water separator sludge at Roxana Landfill, WRB and Conoco violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents, WRB and Conoco:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Act as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

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

**COUNT IX**

**LAND BAN VIOLATION**

1-25. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count X.

26. On August 28, 2009, WRB and Conoco disposed of approximately 10 tons of hazardous waste oil-water separator sludge at the Roxana Landfill.

27. Section 728.138(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.138(a), provides in pertinent part, as follows:

The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151 are prohibited from land disposal. In addition, debris contaminated with USEPA hazardous waste numbers F037....are prohibited from land disposal.

28. By disposing of hazardous waste oil-water separator sludge on land at the Roxana Landfill, WRB and Conoco violated Section 728.138(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.138(a).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents, WRB and Conoco:

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

B. Finding that the Respondents have violated the Board's regulations as alleged herein;

C. Ordering the Respondents to cease and desist from any further violations of the Act;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

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

**COUNT X**

**SPECIAL WASTE DISPOSAL VIOLATION**

1-30. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 30 of Count III as paragraphs 1 through 30 of this Count X.

31. Section 808.121(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(c), provides in pertinent part, as follows:

No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:

- 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807; or
- 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act.

32. By causing, threatening or allowing the disposal of special waste at Roxana Landfill, WRB and Conoco violated Section 808.121(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(c).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents, WRB and Conoco:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated the Board's regulations as alleged herein;
- C. Ordering the Respondents to cease and desist from any further violations of the Act;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and

E. 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

Of Counsel

RACHEL R. MEDINA

ARDC#6297171

500 South Second Street

Springfield, Illinois 62706

217/782-9031

Dated: 4/23/12





**I. STATEMENT OF FACTS**

**A. Parties**

1. Contemporaneous with the filing of this Stipulation, a Complaint was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), against the Respondents.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2008).

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. WRB Refining, LP ("WRB") is a Delaware limited partnership. The registered agent for WRB is Corporation Service Company, 211 E. 7<sup>th</sup> St., Suite 620, Austin, TX 78701-3218. WRB owns the Conoco Phillips - Wood River Refinery ("COP Refinery") located at 900 South Central Avenue, Roxana, Illinois.

5. ConocoPhillips Company ("Conoco") is a Delaware corporation. The registered agent for Conoco is United States Corporation Co., 801 Adlai Stevenson Drive, Springfield, IL 62703. Conoco operates the COP Refinery located at 900 South Central Avenue, Roxana, Illinois.

6. Midwest Sanitary Service, Inc. is an Illinois corporation ("Midwest") located at 333 North Old St. Louis Road, Wood River, Madison County, Illinois. The registered agent for Midwest is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

7. Midwest is a transporter of non-hazardous, special and hazardous wastes.

8. Roxana Landfill, Inc. ("Roxana") is an Illinois corporation. Roxana operates the Roxana Landfill which is located at 4601 Cahokia Road, Roxana, Madison County, Illinois

62084. The registered agent for Roxana is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

9. The Roxana Landfill does not have a permit to accept hazardous waste.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

**Waste Disposal Violation**

By disposing of hazardous oil-water separator sludge at Roxana Landfill, WRB and Conoco violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

**Land Ban Violation**

By disposing of hazardous waste oil-water separator sludge on land at the Roxana Landfill, WRB and Conoco violated Section 728.138(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.138(a).

**Special Waste Disposal Violation**

By causing, threatening or allowing the disposal of special waste at Roxana Landfill, WRB and Conoco violated Section 808.121(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(c).

**C. Non-Admission of Violations**

The Respondents represent that they each have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondents do not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

Since the time of the incident, the Respondents re-trained the Midwest Sanitary Service drivers and each was required to certify that he/she understood the requirements for matching

box numbers on the box to the COP Refinery waste tracking receipt. Respondents also implemented a system whereby refinery gate personnel must cross check all waste roll off boxes leaving the refinery to ensure the box number on the box matches the number on the waste tracking receipt. The waste tracking receipt forms have been revised to include a signature line for gate personnel and gate personnel signatures are added upon completion of the cross check. In addition, brightly colored stickers were developed for roll-off boxes containing the recycling materials and Midwest drivers have been trained to not pick up or transport boxes with these stickers. Finally, oversight responsibilities for the transport of nonhazardous materials have been assigned to the Refinery's environmental engineer who handles hazardous waste issues.

## **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, and any officer, director, agent, or employee of the Respondents, as well as any successors or assigns of the Respondents. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondents in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Respondents' failure to properly manage hazardous waste, namely petroleum oil-water separator sludge, so as to prevent the unauthorized disposal of such hazardous waste, threatened human health and the environment.

2. The parties agree that the Respondents' operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the Respondent.

3. Respondents' operations are suitable to the area in which they occur.

4. The parties agree it is both technically practicable and economically reasonable to dispose of hazardous waste in compliance with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2008), and associated regulations, and that Respondent is taking steps to comply with the Act.

5. Respondent has subsequently complied with the Act and the Board Regulations.

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

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

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

1. The Respondents permitted a load of approximately 9 cubic yards of hazardous waste, namely petroleum oil-water separator sludge, to be hauled to and disposed at the Roxana Landfill. The violations occurred on August 28, 2009 and were resolved the same day.
2. Respondents were diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations following the incident. The Respondents immediately dispatched an environmental contractor to recover the disposed materials from the landfill upon receiving notification of the unauthorized disposal.
3. The Respondents did not gain any economic benefit from its noncompliance.
4. Complainant has determined, based upon the specific facts of this matter, that a joint penalty of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, the Respondents have no previously adjudicated violations of the Act.

6. Respondents notified the Illinois EPA of the petroleum oil-water separator sludge disposal at Roxana Landfill on August 28, 2009.

7. The settlement of this matter does not include a supplemental environmental project.

#### V. TERMS OF SETTLEMENT

##### A. Penalty Payment

1. The Respondents shall jointly pay a civil penalty in the sum of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

##### B. Interest and Default

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondents not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rachel R. Medina  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondents' facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondents to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

4. The Respondents shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondents' payment of the \$14,750.00 penalty, its commitment to cease and desist as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneous with the filing of this Stipulation. The 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. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

**F. Execution of Stipulation**

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



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

PEOPLE OF THE STATE OF ILLINOIS,

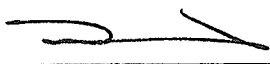
FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

BY:   
JOHN S. KIM  
Interim Director

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

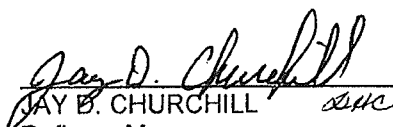
DATE: 4/10/12

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 4/13/12

WRB REFINING, LP  
By ConocoPhillips Company,  
Operator

CONOCOPHILLIPS COMPANY

BY:   
JAY B. CHURCHILL *etc*  
Refinery Manager

BY:   
JAY B. CHURCHILL *etc*  
Refinery Manager

DATE: 3/16/2012

DATE: 3/16/2012



**I. STATEMENT OF FACTS**

**A. Parties**

1. Contemporaneous with the filing of this Stipulation, a Complaint was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2008).

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. Midwest Sanitary Service, Inc. is an Illinois corporation ("Midwest") located at 333 North Old St. Louis Road, Wood River, Madison County, Illinois. The registered agent for Midwest is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

5. Midwest is a transporter of non-hazardous, special and hazardous wastes.

6. Roxana Landfill, Inc. ("Roxana") is an Illinois corporation. Roxana operates the Roxana Landfill which is located at 4601 Cahokia Road, Roxana, Madison County, Illinois 62084. The registered agent for Roxana is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

7. The Roxana Landfill does not have a permit to accept hazardous waste.

8. WRB Refining, LP ("WRB") is a Delaware limited partnership. The registered agent for WRB is Corporation Service Company, 211 E. 7<sup>th</sup> St., Suite 620, Austin, TX 78701-3218. WRB owns the Conoco Phillips - Wood River Refinery ("COP Refinery") located at 900 South Central Avenue, Roxana, Illinois.

9. ConocoPhillips Company ("Conoco") is a Delaware corporation. The registered agent for Conoco is United States Corporation Co., 801 Adlai Stevenson Drive, Springfield, IL 62703. Conoco operates the COP Refinery located at 900 South Central Avenue, Roxana, Illinois.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Waste Disposal Violations

By delivering hazardous waste for disposal, treatment or storage at Roxana Landfill, Midwest violated Section 809.302(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.302(b), and Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

By conducting a hazardous waste-transportation operation in violation of Board regulations, Midwest violated Section 21(g) of the Act, 415 ILCS 5/21(g) (2008).

Transportation Without a Manifest

By accepting oil-water separator sludge from WRB without a manifest for such hazardous waste, Midwest violated Section 723.120(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 723.120(a).

By conducting a hazardous waste-transportation operation in violation of Board regulations, Midwest violated Section 21(g) of the Act, 415 ILCS 5/21(g) (2008).

**C. Non-Admission of Violations**

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

Since the date of the incident, Midwest drivers participated in training provided by ConocoPhillips Company. The training covered ConocoPhillips labeling system for waste loads,

including what labels are used specifically for hazardous materials that are designated for on-site recycling and under no circumstances should be removed from the property.

## II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. By failing to accurately identify the waste to be transported to the Roxana Landfill and delivering an unauthorized load of hazardous waste to the Roxana Landfill, the Respondent threatened human health and the environment.
2. The parties agree that the Respondent's operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the Respondent.
3. Respondent's operations are suitable to the area in which they occur.
4. The parties agree it is both technically practicable and economically reasonable to transport hazardous waste in compliance with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2008), and associated regulations, and that Respondent is taking steps to comply with the Act.
5. Respondent has subsequently complied with the Act and the Board Regulations.

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

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; 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 to the Stipulation state as follows:

1. The Respondent hauled an unauthorized load of approximately 9 cubic yards of hazardous petroleum oil-water separator sludge from the COP Refinery and disposed of the load at the Roxana Landfill in error. The violations took place on August 28, 2009 and were resolved the same day. The disposal violations are moderate in their potential for harm and extent of deviation from legal requirements.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations. The Respondent realized the disposal error approximately two hours following the disposal and notified the generator of the mistake.
3. The Respondent did not gain any economic benefit from its noncompliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Eight Thousand Dollars (\$8,000.00) and a supplemental environmental project valued at Eight Thousand Dollars (\$8,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. The Respondent immediately notified the generator of the waste upon knowledge that the incorrect load had been delivered to the Roxana Landfill. As a result, the generator, ConocoPhillips, dispatched a contractor to recover the load from the Roxana Landfill within approximately five hours of its disposal.
7. The Respondent has agreed to undertake a supplemental environmental

enforcement project providing hauling and disposal services to the State of Illinois as outlined in Section V.E below.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Eight Thousand Dollars (\$8,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276



The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rachel R. Medina  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

2. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Supplemental Environmental Project**

1. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, the Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is Eight Thousand Dollars (\$8,000.00) and will offset penalties sought by the Complainant and the Illinois EPA in this matter. The Parties to the Stipulation agree that this SEP shall consist of the following:

- a. Respondent shall provide the Complainant with \$8,000.00 in waste hauling and disposal costs at the following rates: i) Waste hauling at \$60.00 per hour to include: truck driver, truck, and truck expenses; ii) Landfill charges at \$35.00 per ton or actual landfill disposal cost; and, iii) Containers or box rental at no charge.
- b. Complainant shall notify Respondent that it intends to utilize the hauling and disposal services at least fourteen (14) business days prior to the date such services will be needed.

- c. The Respondent and Complainant shall review the subject waste to be hauled to determine acceptability of the waste into an appropriate landfill in accordance with state, federal and local rules and regulations.
- d. Upon disposal of any SEP waste, Respondent shall obtain a gate receipt evidencing the amount of waste disposed and the date of receipt at the landfill. Copies of all of the receipts shall be immediately forwarded to the parties listed in section V.G.
- e. Complainant shall utilize the above-noted hauling and disposal services within one year from the date the Board enters an Order accepting this Stipulation.

2. Upon completion of the SEP, the Respondent shall submit a project completion report, including a summary of all expenditures, to the contact persons identified in Section V.G for review and confirmation that the SEP was performed pursuant to this Stipulation. The project completion report shall include the following certification by a responsible corporate official of the Respondent:

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted based on my inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

In the event that the SEP cannot be completed, the Respondent shall pay the balance of the settlement value of the SEP, up to the full value of the SEP, as an additional penalty pursuant to the procedures of Section V.C no later than the date by which the SEP should have been completed.

3. By signature on this Stipulation, the Respondent certifies that, as of the date of entry of this Order, it is not required to perform or develop the foregoing SEP by any federal,

state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. The Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEP in any other enforcement action.

4. Any public statement, oral or written, in print, film or other media, made by the Respondent making reference to any SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder."

**F. Release from Liability**

In consideration of the Respondent's payment of the \$8,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, its performance of the SEP as contained in Section V.E. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**G. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Rachel R. Medina  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Melanie Jarvis  
Assistant Counsel  
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As to the Respondent

Rene Bassett Butler  
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Basset Law Office  
16 W. Lorena Avenue  
Wood River, Illinois 62095

**H. Enforcement and Modification of Stipulation**

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.G. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

**I. Execution of Stipulation**

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

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

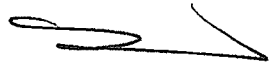
PEOPLE OF THE STATE OF ILLINOIS,  
LISA MADIGAN  
Attorney General  
State of Illinois

FOR THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

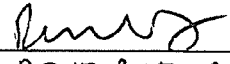
BY:   
JOHN J. KIM  
Interim Director

DATE: 4/20/12

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 4/23/12

MIDWEST SANITARY SERVICE, INC.

BY:   
RENE BUTLER

DATE: 2/21/12