

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
MAHOMET VALLEY WATER AUTHORITY,)
CITY OF CHAMPAIGN, ILLINOIS, a municipal)
corporation, DONALD R. GERARD,)
CITY OF URBANA, ILLINOIS, a municipal corporation,)
LAUREL LUNT PRUSSING,)
CITY OF BLOOMINGTON, ILLINOIS,)
a municipal corporation, COUNTY OF CHAMPAIGN,)
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)
TOWN OF NORMAL, ILLINOIS, a municipal)
corporation, VILLAGE OF SAVOY, ILLINOIS,)
a municipal corporation, and CITY OF DECATUR,)
ILLINOIS, a municipal corporation,)
)
Complainants,)
)
v.)
)
CLINTON LANDFILL, INC.,)
an Illinois corporation,)
)
)
Respondent.)

PCB 2013 -
(Enforcement - Land)

NOTICE OF ELECTRONIC FILING

TO: CLINTON LANDFILL, INC., an Illinois corporation, Respondent
c/o Brian J. Meginnes, its Registered Agent
416 Main Street, Suite 1400
Peoria, Illinois 61602

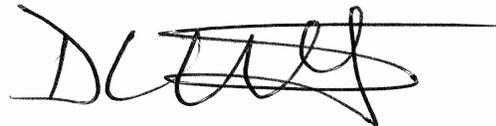
PLEASE TAKE NOTICE that on this date I filed electronically with the Clerk of the Pollution Control Board of the State of Illinois: a CITIZENS' COMPLAINT, a copy of which is attached hereto and herewith served upon you; and an ENTRY OF APPEARANCE for David L. Wentworth II and David B. Wiest, and an ENTRY OF APPEARANCE for Albert Ettinger, copies of which are attached hereto and herewith

served upon you. Pursuant to the Board's procedural rules, the documents referenced above are served upon Respondent, Clinton Landfill, Inc., addressed as set forth above by Certified Mail. 35 Ill. Admin. Code 103.204(a). Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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. FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1-19 (2007), to correct the pollution alleged in the Complaint filed in this case. This filing is submitted on recycled paper.

Respectfully submitted,

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAURAL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF DECATUR,
ILLINOIS, a municipal corporation,

Complainants,

A handwritten signature in black ink, appearing to be "D. L. [unclear]", written over a horizontal line.

Dated: November 9, 2012 By: _____
One of Their Attorneys

David L. Wentworth II
David B. Wiest
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

CERTIFICATE OF SERVICE

I hereby certify that I did on November 9, 2012, send by certified mail, return receipt requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Peoria, Illinois, a true and correct copy of the following instruments, entitled: NOTICE OF ELECTRONIC FILING, ENTRY OF APPEARANCE for David L. Wentworth II and David B. Wiest, ENTRY OF APPEARANCE for Albert Ettinger, and CITIZENS' COMPLAINT, in the above-captioned matter:

TO: CLINTON LANDFILL, INC., Respondent
c/o Brian J. Meginnes, Registered Agent
416 Main Street, Suite 1400
Peoria, Illinois 61602
Article No. 7009 0080 0000 8427 3471

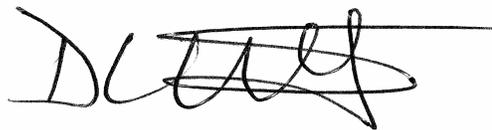
and the same by electronic filing as authorized by the Clerk of the Illinois Pollution Control Board;

and a courtesy copy by First Class U.S. Mail with postage thereon fully prepaid, by depositing in a U.S. Post Office Box in Peoria, Illinois, a true and correct copy of the same foregoing instruments:

TO: Thomas E. Davis, Chief
Environmental Bureau/Springfield
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

Tony Martig
Toxics Program Section Chief
USEPA Region 5 (Mail Code LC-8J)
77 W. Jackson Blvd.
Chicago, Illinois 60604-3507

John J. Kim, Interim Director
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276



David L. Wentworth II

David L. Wentworth II
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
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LAUREL LUNT PRUSSING,)
CITY OF BLOOMINGTON, ILLINOIS,)
a municipal corporation, COUNTY OF CHAMPAIGN,)
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)
TOWN OF NORMAL, ILLINOIS, a municipal)
corporation, VILLAGE OF SAVOY, ILLINOIS,)
a municipal corporation, and CITY OF DECATUR,)
ILLINOIS, a municipal corporation,)
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Complainants,)
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v.)
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CLINTON LANDFILL, INC.,)
an Illinois corporation,)
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Respondent.)

PCB 2013 -
(Enforcement - Land)

ENTRY OF APPEARANCE

TO: Clerk of the Illinois Pollution Control Board and All Parties of Record

Please enter our appearance as counsel of record in this case for the following:

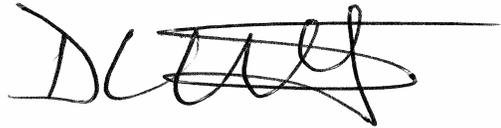
MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation,
DONALD R. GERARD,
CITY OF URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING,
CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation,

COUNTY OF CHAMPAIGN, ILLINOIS,
COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal corporation,
VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, and
CITY OF DECATUR, ILLINOIS, a municipal corporation,

Complainants.

Dated: November 9, 2012.

Respectfully submitted,



By: _____

David L. Wentworth II
One of Their Attorneys



By: _____

David B. Wiest
One of Their Attorneys

David L. Wentworth II
David B. Wiest
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500

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MAHOMET VALLEY WATER AUTHORITY,)	
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CITY OF URBANA, ILLINOIS, a municipal corporation,)	
LAUREL LUNT PRUSSING,)	
CITY OF BLOOMINGTON, ILLINOIS,)	
a municipal corporation, COUNTY OF CHAMPAIGN,)	
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)	
TOWN OF NORMAL, ILLINOIS, a municipal)	
corporation, VILLAGE OF SAVOY, ILLINOIS,)	
a municipal corporation, and CITY OF DECATUR,)	
ILLINOIS, a municipal corporation,)	
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Complainants,)	
)	PCB 2013 -
v.)	
)	(Enforcement - Land)
CLINTON LANDFILL, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

ENTRY OF APPEARANCE

TO: Clerk of the Illinois Pollution Control Board and All Parties of Record

Please enter my appearance as counsel of record in this case for the following:

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation,
DONALD R. GERARD,
CITY OF URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING,
CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation,
COUNTY OF CHAMPAIGN, ILLINOIS,

COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal corporation,
VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, and
CITY OF DECATUR, ILLINOIS, a municipal corporation,
Complainants.

Dated: November 7, 2012

Respectfully submitted,

By: 
Albert Ettinger
One of Their Attorneys

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAHOMET VALLEY WATER AUTHORITY,)
CITY OF CHAMPAIGN, ILLINOIS, a municipal)
corporation, DONALD R. GERARD,)
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LAUREL LUNT PRUSSING,)
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a municipal corporation, COUNTY OF CHAMPAIGN,)
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)
TOWN OF NORMAL, ILLINOIS, a municipal)
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CITIZENS' COMPLAINT

NOW COME the Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, a municipal corporation, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL, ILLINOIS, a municipal corporation, VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, and CITY OF DECATUR, a municipal corporation, by and through their

attorneys, Hasselberg, Williams, Grebe, Snodgrass & Birdsall, and Albert Ettinger, and complain of Respondent, CLINTON LANDFILL, INC., an Illinois corporation, as follows:

ALLEGATIONS COMMON TO ALL COUNTS

A. INTRODUCTION

1. This action complains that the Respondent, Clinton Landfill, Inc., an Illinois corporation (CLI), violated multiple sections of the Illinois Environmental Protection Act (Act) when it transformed a municipal solid waste disposal unit into a Chemical Waste Unit (CWU) specifically designed for the disposal of at least two (2) types of highly toxic environmental contaminants without obtaining prior siting authority from the DeWitt County Board. CLI operates a municipal solid waste disposal unit known as "Clinton Landfill No. 3." Clinton Landfill No. 3 is located and sited over a part of the Mahomet Aquifer in DeWitt County, Illinois. At Clinton Landfill No. 3, CLI intends to dispose of polychlorinated biphenyls (PCBs) and manufactured gas plant remediation waste (MGP) in concentrations greater than are allowed in a municipal solid waste landfill and which must typically be disposed of in a hazardous waste landfill.

2. The Mahomet Aquifer is a regional aquifer and single hydraulic unit in the Mackinaw Bedrock Valley and the Mahomet Bedrock Valley beneath fifteen (15) east-central Illinois counties, including Cass, Champaign, DeWitt (where Clinton Landfill No. 3 is located), Ford, Iroquois, Logan, Macon, Mason, McLean, Menard, Piatt, Sangamon, Tazewell, Vermillion, and Woodford, and is the principal groundwater resource in the

region supplying high-quality freshwater to municipalities, industries, homeowners, and farmers. Since the 1990's, the use of the Mahomet Aquifer has increased due to expanding population and industry, and the depletion of surface-water reservoirs during periods of drought. Complainants are citizens and units of local government whose citizens use the Mahomet Aquifer as the source of potable, public drinking water supplies, and individual residents and Mayors of two of those units of local government, including Donald R. Gerard of the City of Champaign and Laurel Lunt Prussing of the City of Urbana. The Mahomet Aquifer contains "resource groundwater" as defined by Section 3(j) of the Illinois Groundwater Protection Act, 415 ILCS 55/3(j). The Complainants and their respective citizens presently put this water to beneficial use because of its suitable quality and quantity.

3. PCBs are a toxic group of compounds that have unique regulatory requirements because they are no longer manufactured. PCBs are toxic and persistent, and can enter the body through the gastrointestinal tract and skin, and can circulate throughout the body, and be stored in the fatty tissue. PCBs have an oncogenic potential, and may cause reproductive and developmental toxicity in humans. PCBs are a proven human carcinogen and have been banned since 1977 in the United States. PCBs are organic chemicals that do not break down in the environment.

4. Manufactured gas plants are facilities that produced gas from coal or oil for cooking, heating and lighting and were used during the 1800s until the 1950s. The Illinois Environmental Protection Agency (Agency) administers a clean up program for old manufactured gas plant facilities. The USEPA has determined that manufactured gas

plant remediation waste (MGP) is not subject to the TCLP hazardous waste testing procedures regarding toxicity (incorporated into Illinois regulations at 35 Ill. Admin. Code 721.124(a)). The Agency mandates that MGP can only be disposed of in Illinois in a RCRA Subtitle C hazardous waste disposal facility unless testing demonstrates that the waste is non-hazardous as defined in 35 Ill. Admin. Code 721.124(b).

5. CLI violated the Act when it failed to obtain local siting authority from the DeWitt County Board for the creation of the Chemical Waste Unit and for the disposal of the PCB and MGP waste streams in the Chemical Waste Unit. CLI thereby violates Sections 39(c) and 39.2 of the Act because both the creation of Chemical Waste Unit and the proposed disposal of the PCB and MGP waste streams in the Chemical Waste Unit constitute a "new pollution control facility" under Section 3.330(b) of the Act. The Act requires new local siting authority for each new pollution control facility. 415 ILCS 5/39(c), 39.2.

6. CLI created a Chemical Waste Unit, a new disposal unit specifically and specially designed to exceed hazardous waste disposal standards. CLI's actions evidence an intent to dispose of high concentrations of toxic PCB wastes in the new disposal unit pending Toxic Substance Control Act (TSCA) approval by USEPA. CLI's actions also evidence an intent to dispose of hazardous manufactured gas plant waste exceeding the regulatory levels that characterize a waste as "hazardous" as specified in 35 Ill. Adm. Code 721.124(b).

B. JURISDICTION

7. This complaint is brought pursuant to Section 31(d)(1) of the Act, which states in pertinent part: "Any person may file with the Board a complaint, meeting the requirements of subsection (c) of this Section, against any person allegedly violating the Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order." 415 ILCS 5/31(d)(1).

8. Sections 103.106, 103.200, and 101.106(b) of the Board's procedural rules provide that Complainants may bring the instant enforcement proceeding and that the Board has authority to conduct proceedings on the instant complaint. 35 Ill. Admin. Code 103.106, 103.200, and 101.106(b); see also 2 Ill. Admin. Code 2175.600.

9. It is no defense that the Agency issued a Permit Renewal and Permit Modifications (more specifically described below) for Clinton Landfill No. 3 because Section 813.107 of the Board's rules states: "The issuance and possession of a permit shall not constitute a defense to a violation of the Act or any Board regulations set forth in 35 Ill. Adm. Code: Chapter I except for the development and operation of a landfill without a permit." 35 Ill. Admin. Code 813.107.

10. By virtue of the Agency's issuance of the Permit Renewal on July 5, 2012, for the first time, CLI's waste disposal operations of waste containing polychlorinated biphenyls (PCBs) in concentrations greater than allowed pursuant to TSCA and of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), have commenced or have been permitted to commence in approximately 4.5 acres of Phase 1A, and in approximately another 1.64 acres of Phase

1A, of the 22.5-acre Chemical Waste Unit. 35 Ill. Admin. Code 813.203. CLI thereby is violating or threatening to violate the Act and Board's rules as set forth herein.

C. PARTIES

11. Complainants are units of local government within the State of Illinois, and individual residents of three (3) of the local governmental units, and thereby "persons" under the Act, which use and utilize ground water from the Mahomet Aquifer as the source of their respective safe potable, public drinking-water supplies. 415 ILCS 5/3.315. Complainants' respective water supplies are vital to the public health and safety.

12. Complainant, the Mahomet Valley Water Authority (MVWA), is a water authority incorporated pursuant to the Water Authorities Act, 70 ILCS 3715/1 to 3715/27, with its principal office located in Monticello, Piatt County, Illinois, covering a contiguous territory including Piatt and DeWitt Counties, State of Illinois. Clinton Landfill No. 3 and the Chemical Waste Unit are located in the Mahomet Valley Water Authority District. The Water Authorities Act authorizes MVWA to require information on the quality, quantity, supply, withdrawal and use of water within its District. MVWA was incorporated to protect the public health, welfare and safety, and to prevent pollution of its water supply.

13. Complainant, the City of Champaign, Illinois, is a municipal corporation, in which the Illinois American Water Company, an Illinois Corporation, operates the sole public water supply for the residents of that municipality, sourced solely from the resource groundwater in the Mahomet Aquifer.

14. Complainant, Donald R. Gerard, is a resident of the City of Champaign, County of Champaign, Illinois, and is the Mayor of the City of Champaign, Illinois, and uses and consumes drinking water provided by Illinois American Water Company, an Illinois Corporation, that is sourced solely from the resource groundwater in the Mahomet Aquifer.

15. Complainant, the City of Urbana, Illinois, is a municipal corporation in which the Illinois American Water Company, an Illinois Corporation, operates the sole public water supply for the residents of that municipality, sourced solely from the resource groundwater in the Mahomet Aquifer.

16. Complainant, Laurel Lunt Prussing, is a resident of the City of Urbana, Champaign County, Illinois, and is the Mayor of the City of Urbana, Illinois, and uses and consumes drinking water provided by Illinois American Water Company, an Illinois Corporation, that is sourced solely from the resource groundwater in the Mahomet Aquifer.

17. Complainant, the City of Bloomington, Illinois, is a municipal corporation located in McLean County, which operates a public water supply for the residents of that municipality that is sourced, during periods of shortages from its principle source of water, from the resource groundwater in the Mahomet Aquifer.

18. Complainant, the County of Champaign, Illinois, is a unit of local government whose territory includes numerous municipalities that have or operate public water supplies for their respective residents which are sourced solely or primarily from the resource groundwater in the Mahomet Aquifer, including but not limited to the Cities

of Champaign and Urbana, and the Villages of Fisher, Gifford, Mahomet, Rantoul, Savoy and Philo.

19. Complainant, the County of Piatt, Illinois, is a unit of local government, whose territory includes numerous municipalities, including but not limited to the Villages of Monticello, Mansfield and Bement, that have or operate public water supplies for their respective residents whose sole or primary source is the resource groundwater of the Mahomet Aquifer.

20. Complainant, the Town of Normal, Illinois, is a municipal corporation, located in McLean County, Illinois, which operates a public water supply for the residents of the municipality sourced substantially from the resource groundwater in the Mahomet Aquifer.

21. Complainant, the Village of Savoy, Illinois, is a municipal corporation located in Champaign County, Illinois, in which the Illinois American Water Company, an Illinois corporation, operates the public water supply for the residents of that municipality, which is sourced primarily from the resource groundwater in the Mahomet Aquifer.

22. Complainant, the City of Decatur, Illinois, is a municipal corporation located in Macon County, which operates a public water supply for the residents of that municipality that is sourced, during periods of shortages from its principle source of water, from the resource groundwater in the Mahomet Aquifer.

23. The Agency, not a party hereto, is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4.

24. Respondent, Clinton Landfill, Inc. (CLI), is an Illinois corporation in good standing with the Illinois Secretary of State, and thereby a "person" under the Act, which operates a landfill facility in DeWitt County, Illinois, near the City of Clinton, which includes a disposal unit known as "Clinton Landfill No. 3". 415 ILCS 5/3.315.

25. Peoria Disposal Company (PDC) and Area Disposal Service, Inc. (Area), not parties hereto, and CLI, on information and belief, are affiliated companies under common ownership and control. PDC and Area provide integrated waste treatment, transportation, storage and disposal of waste, including but not limited to municipal solid waste and hazardous wastes, throughout Central Illinois.

D. FACTUAL BACKGROUND

1. **Clinton Landfill No. 3 Municipal Solid Waste Landfill Siting Expansion**

26. On April 11, 2002, Respondent, CLI, filed an "Application for Siting Approval" (Application) with the DeWitt County Board to expand its then-existing municipal solid waste landfill facility to develop another municipal waste disposal unit known as Clinton Landfill No. 3.

27. Section 2.5.3 of the Application stated that the proposed facility would not accept wastes "containing polychlorinated bi-phenyls (PCBs) at concentrations greater than that allowed by the Toxic Substances Control Act (TSCA)."

28. The DeWitt County Board conducted public hearings on the expansion application on July 11, 2002 and July 15, 2002.

29. On July 11, 2002, during the public hearing conducted on the siting Application before the DeWitt County Board, Ronald L. Edwards, Vice President - Landfill Development and Operation and an authorized agent of Respondent, CLI, testified under oath that "[w]aste concerning PCB's regulated by the Toxic Substances Control Act will not be accepted" at Clinton Landfill No. 3 and that "[h]azardous waste as defined by Illinois Administrative Code Title 35, Section 721, will not be accepted" at Clinton Landfill No. 3.

30. On July 11, 2002, Mr. Edwards further testified under oath to the DeWitt County Board that before any "special waste" could be accepted for disposal at the expanded facility, "[t]hey must not contain a listed hazardous waste or PCBs in concentrations regulated by the Toxic Substances Control Act . . . [and] must not exhibit the characteristic of hazardous waste as defined by Illinois Administrative Code Title 35, Section 721"

31. On September 12, 2002, the DeWitt County Board approved a resolution stating that the County Board "conditionally approves the request of Clinton Landfill, Inc. for site approval for the proposed expansion"

32. The DeWitt County Board's resolution is the decision of the county board on the siting expansion Application under Section 39.2(e) of the Act, and said approval was based on, and limited to, CLI's request for the proposed expansion as expressly set forth in the Application and in sworn testimony during the siting hearings regarding Clinton Landfill No. 3.

33. The municipal solid waste disposal facility, as proposed in the Application, did not include the installation of leachate collection systems and liner systems that meet the design and operational requirements of a hazardous waste facility.

34. The express terms of the Application specifically excluded the disposal of high concentration level PCBs, hazardous levels of MGP, and hazardous waste. CLI reaffirmed these exclusions during sworn testimony at the siting hearing, and the County Board addressed the exclusions during its deliberations.

2. Clinton Landfill No. 3 Municipal Solid Waste Landfill Permitting

35. On March 2, 2007, the Agency issued Permit No. 2005-070-LF to CLI for Clinton Landfill No. 3, a regulated RCRA Subtitle D facility, to develop a new municipal solid waste landfill (Permit). The Agency identified Clinton Landfill No. 3 as Site No. 0390055036. A true and correct copy of the Permit (including the June 22, 2007 Permit Modification No. 1, described below) is attached as **Exhibit A**.

36. Shortly after obtaining the Permit, CLI filed permit modification applications with the Agency on March 26, 2007 and April 27, 2007, for Clinton Landfill No. 3, to be constructed as a regulated RCRA Subtitle D facility, to operate as a municipal solid waste landfill. The Agency identified these modification requests as Permit Modification No. 1, issued June 22, 2007. (See Exhibit A).

37. As part of the application for Permit No. 2005-070-LF, CLI submitted Agency Form LPC-PA8, Certification of Siting Approval, dated October 17, 2002 indicating local siting authority for the municipal solid waste landfill had been granted by

the DeWitt County Board based on the 2002 Application. A true and correct copy of the Certification of Siting Approval is attached as **Exhibit B**.

38. Operating Condition II.10.f of Agency Permit No. 2005-070-LF states: "This facility is prohibited from disposing any waste containing polychlorinated biphenyls (PCBs) in concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)." See Permit, Exh. A, p. 9.

39. Special Waste disposal condition III.A.2.f. of Agency Permit No. 2005-070-LF prohibited the disposal of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b). See Permit, Exh. A, p. 14.

3. PDC and Area's History with Hazardous and Toxic Waste Streams and Landfills

A. PDC Landfill No. 1 in Peoria County

40. PDC owns and operates a hazardous waste landfill and treatment facility known as the PDC No. 1 Landfill in Peoria County, Illinois.

41. PDC No. 1 Landfill is a regulated RCRA Subtitle C hazardous waste disposal and treatment facility, and has accepted and continues to be permitted to accept hazardous waste, low level PCB waste (at levels not regulated by TSCA), and hazardous manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b). As of the date of filing of the instant complaint, PDC No. 1 Landfill has not reached its maximum permitted disposal capacity.

42. On November 9, 2005, PDC filed an application for siting approval with the Peoria County Board to laterally and vertically expand PDC No. 1 Landfill because it was reaching its maximum permitted capacity.

43. On December 9, 2005, PDC filed an application with USEPA for coordinated approval pursuant to TSCA to dispose of PCB's in concentrations greater than 50 ppm in PDC No. 1 Landfill in Peoria County.

44. On May 3, 2006, the Peoria County Board denied PDC's siting application regarding an expansion of PDC No. 1 Landfill. PDC filed an appeal of the local siting denial with the Illinois Pollution Control Board.

45. On June 21, 2007, the Illinois Pollution Control Board affirmed the decision of the Peoria County Board to deny siting authority for an expansion of PDC No. 1. See generally Board Case No. 06-184.

B. CLI's Clinton Landfill No. 3 in DeWitt County

46. On October 19, 2007, CLI, by Ron L. Edwards, its Vice President - Landfill Development and Operations, filed application with USEPA for coordinated approval pursuant to TSCA to dispose of PCB's in concentrations greater than 50 ppm for the first time in a portion of Clinton Landfill No. 3 to be redesigned as a Chemical Waste Unit in DeWitt County. A true and correct copy of the application letter and executive summary portions of the TSCA application for Clinton Landfill No. 3 is attached as **Exhibit C**. USEPA approval is still pending.

47. At or near the time CLI filed a TSCA coordinated approval for Clinton Landfill No. 3, PDC, CLI's affiliate, withdrew PDC's request for TSCA coordinated approval from USEPA for the PDC No. 1 Landfill in Peoria County.

C. **Clinton Landfill No. 3 Municipal Solid Waste Landfill Permit Modifications and Renewal**

48. After Permit No. 2005-070-LF was issued for Clinton Landfill No. 3, on or about February 1, 2008, CLI filed an application for approval from the Agency to modify its permit to implement design modifications to change 22.5 acres in the southwestern portion of the existing landfill into a "Chemical Waste Unit." This resulted in Permit Modification No. 9 issued by the Agency on or about January 8, 2010. A true and correct copy of the Permit Modification No. 9 is attached as **Exhibit D**.

49. CLI initiated Permit Modification No. 9 to obtain approval from USEPA for disposal of, for the first time in Clinton Landfill No. 3, polychlorinated biphenyls (PCBs) in concentrations greater than 50 ppm pursuant to the Toxic Substances Control Act (TSCA), 15 USC § 2605(e).

50. CLI also initiated Permit Modification No. 9 to obtain approval from the Agency for disposal of, for the first time in Clinton Landfill No. 3, polychlorinated biphenyls (PCBs) in concentrations greater than 50 ppm pursuant to the Toxic Substances Control Act (TSCA).

51. CLI also initiated Permit Modification No. 9 to obtain approval from the Agency for disposal of, for the first time in Clinton Landfill No. 3, "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)."

52. The Chemical Waste Unit modification split the Clinton Landfill No. 3 into two (2) units: 1) one unit retained its characteristics as a municipal solid waste landfill of the nature and design approved by the DeWitt County Board based on the 2002 local siting Application; and 2) the other unit becoming a “Chemical Waste Landfill” and “Unit” as defined under the TSCA regulations found at 40 CFR Part 761, including Section 761.3, Definitions.

53. To comply with PCB disposal provisions of TSCA and TSCA regulations, CLI designed the Chemical Waste Unit to exceed the design and operating requirements for *hazardous* waste disposal facilities. See 35 Ill. Admin. Code 724.401(c).

54. By use of the operator-initiated modification provisions for the design and operation of the Chemical Waste Unit at Clinton Landfill No. 3, CLI turned a 22.5-acre portion of Clinton Landfill No. 3 into a *de facto* hazardous waste facility.

55. Permit Modification No. 9 constituted a "significant modification" to Permit No. 2005-070-LF pursuant to 35 Ill. Admin. Code 813.103 because it: 1) created a Chemical Waste Unit; 2) changed the capacity of the unit; 3) changed the Operating Condition II.10.f of IEPA Permit No. 2005-070-LF regarding PCB's; 4) changed the Special Waste disposal condition of III.A.2.f. regarding manufactured gas plant waste; 5) changed the configuration, performance and efficiency of the leachate management system; 6) changed the permit boundary for the Chemical Waste Unit; and 7) changed the post closure land use of the facility.

56. The "significant modification" requests that CLI initiated significantly increased the usual environmental safeguards for a municipal solid waste landfill—by

doubling, tripling or increasing by an even greater factor the required safeguards. The “significant modification” provided for an upper leachate collection and liner system, a lower leachate collection and liner system, and additional ground water monitoring systems not otherwise required by the Agency for a municipal solid waste landfill.

57. The "significant modifications" to the Permit also included: 1) the redesign of the single composite liner of the Chemical Waste Unit landfill to include multiple layers of composite-liner systems consisting of three (3) 60-mil HDPE geomembranes; 2) the addition of a significant number of additional chemical constituents leachate monitoring parameters; 3) the prohibition of leachate re-circulation in the Chemical Waste Unit (which had been allowed in the municipal solid waste unit); 4) the addition of a significant number of additional chemical constituents groundwater well monitoring parameters; and 5) the change in final cover design.

58. On or about November 21, 2011, CLI filed an application for Permit Renewal, which included additional modification requests to the Chemical Waste Unit. The Agency identified these modifications as Permit Modification No. 29. A true and correct copy of the Permit Renewal issued July 5, 2012 (which also includes Permit Modification No. 29) is attached as **Exhibit E**.

59. CLI did not file an appeal for administrative review of the issuance by the Agency of the Permit, Permit Renewal, Permit Modification No. 9 or Permit Modification No. 29. On information and belief, no other actions are pending before the Board or in any tribunal regarding the matters set forth in the instant complaint.

60. The documents CLI submitted to the Agency to justify the Permit Renewal and Permit Modification Nos. 9 and 29 included information that compared the proposed Chemical Waste Unit to two (2) RCRA Subtitle C hazardous waste facilities in Michigan and Utah that took PCB's for disposal in concentrations greater than 50 ppm pursuant to USEPA authority under the Toxic Substances Control Act (TSCA).

61. The Agency has published documents indicating that the Chemical Waste Unit "meets design standards for a hazardous waste landfill."

62. On information and belief, little to none of the polychlorinated biphenyls (PCBs) in concentrations greater than 50 ppm pursuant to the Toxic Substances Control Act (TSCA), or manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), will be sourced from within the area the municipal solid waste landfill was intended to serve as set forth in the Application before the DeWitt County Board. 415 ILCS 5/39.2(a)(i).

63. In addition to the foregoing significant modifications, the Permit Renewal and Permit Modification Nos. 9 and 29 shortened the projected life of the municipal solid waste portion of Clinton Landfill No. 3 from 45 years to 41 years, which implicates Criterion (i) of Section 39.2(a) of the Act (facility is necessary to accommodate the waste needs of the area it is intended to serve). 415 ILCS 5/39.2(a)(i).

64. The Permit Renewal and Permit Modification Nos. 9 and 29 so dramatically changed the nature, extent and scope of the "proposed facility", its "design" and "plan of operations," and the type of wastes it would accept, that the facility described in the Application approved by the DeWitt County Board in 2002 is a

substantially different facility than what is set forth in the Permit Renewal and Permit Modification Nos. 9 and 29. 415 ILCS 5/39.2(a)(ii).

E. LEGAL BACKGROUND

1. Illinois Constitution of 1970

65. Article XI, Section 2 of the Illinois Constitution states: "Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law."

2. Illinois Environmental Protection Act

A. Legislative Declaration

66. In adopting the Act, effective July 1, 1970, the General Assembly made the following findings and legislative declarations:

(i) that environmental damage seriously endangers the public health and welfare, as more specifically described in later sections of this Act;

(ii) that because environmental damage does not respect political boundaries, it is *necessary to establish a unified state-wide program for environmental protection* and to cooperate fully with other States and with the United States in protecting the environment;

(iii) that *air, water, and other resource pollution, public water supply, solid waste disposal, noise, and other environmental problems are closely interrelated and must be dealt with as a unified whole in order to safeguard the environment*;

(iv) that it is the obligation of the State Government to manage its own activities so as to minimize environmental damage; *to encourage and assist local governments to adopt and implement*

environmental-protection programs consistent with this Act; to promote the development of technology for environmental protection and conservation of natural resources; and in appropriate cases to afford financial assistance in preventing environmental damage;

(v) that in order to alleviate the burden on enforcement agencies, to assure that all interests are given a full hearing, and to increase public participation in the task of protecting the environment, private as well as governmental remedies must be provided;

(vi) that despite the existing laws and regulations concerning environmental damage there exist continuing destruction and damage to the environment and harm to the public health, safety and welfare of the people of this State, and that among the most significant sources of this destruction, damage, and harm are the improper and unsafe transportation, treatment, storage, disposal, and dumping of hazardous wastes;

(vii) that it is necessary to supplement and strengthen existing criminal sanctions regarding environmental damage, by enacting specific penalties for injury to public health and welfare and the environment.

415 ILCS 5/2(a) (emphasis added) (findings set forth in (vi) and (vii) were added to Act effective January 5, 1984).

67. In adopting the Act, the General Assembly established the purpose of the Act itself:

It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.

415 ILCS 5/2(b) (emphasis added).

68. The Act further states that the "terms and provisions of this Act shall be liberally construed so as to effectuate the purposes of this Act as set forth in subsection (b) of this Section" 415 ILCS 5/2(c).

B. Permits Required; New Pollution Control Facilities

69. Section 21(e) of the Act states: "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." 415 ILCS 5/21(e).

70. Section 21(f) of the Act states, in pertinent part: "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" 415 ILCS 5/21(f).

71. Section 39(a) of the Act, since the adoption of the Act in 1970, vests the Agency with the duty to issue permits for the construction, installation, and operation of facilities regulated by the Illinois Pollution Control Board upon proof by the applicant that the facility will not cause a violation of the Act or of the regulations thereunder. 415 ILCS 5/39(a); see also 415 ILCS 5/21(d) (prohibiting waste-disposal operations without an Agency issued permit).

72. The Agency is vested with the duty to issue permit renewals and permit modifications of municipal solid waste landfills upon proof by the applicant that the facility will not cause a violation of the Act or of the regulations thereunder. 415 ILCS

5/39; 35 Ill. Admin. Code 813, Subparts B (modification procedures) and C (renewal procedures).

73. The Board has adopted regulations covering the standards for new pollution control facilities, including but not limited to new municipal solid waste landfills and new chemical waste landfills. See, e.g. 35 Ill. Admin. Code 811.101 and 811.301.

74. The Act defines a "pollution control facility", in pertinent part, as "any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator." 415 ILCS 5/3.330(a).

75. The Act defines a "new pollution control facility" as:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

415 ILCS 5/3.330(b) (emphasis added) (see also 35 Ill. Admin. Code 101.202 Definitions).

76. The Act defines "special waste" to include: "(b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code" 415 ILCS 5/3.475(b).

C. **Local Siting Required Prior to Application for Permit for New Pollution Control Facility**

77. The General Assembly added local siting requirements to the Act in 1981 requiring proof of local siting approval before the Agency could issue a permit. Public Act 82-682, eff. Nov. 12, 1981 (commonly known as "Senate Bill 172"), originally added paragraph 1039.1 to the Act, then in 1982 renumbered it as paragraph 1039.2. Today the local siting requirements are found at 415 ILCS 5/39.2.

78. Senate Bill 172 directed the Agency to issue permits based solely on technical review of the proposal. Senate Bill 172 assigned to local governments the responsibility of reviewing the location, land-use, and quality of life issues of the proposed facility. Although some modifications have been made to the statute since then, the concept of local control of siting of pollution control facilities remains unchanged.

79. Section 39(c) of the Act states: "[N]o permit for the development or construction of a *new pollution control facility* may be granted by the Agency unless the applicant submits proof to the Agency that the *location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act.*" 415 ILCS 5/39(c) (emphasis added).

80. Section 812.105 of the Board's regulations states that landfill permit applications must include information about local siting authority, as follows:

The applicant shall state whether the facility is a new regional pollution control facility, as defined in Section 3.32 of the Act, which is subject to the site location suitability approval requirements of Sections 39(c) and 39.2 of the Act. If such approval by a unit of local government is required, the application shall identify the unit of local government with

jurisdiction. The application shall contain any approval issued by that unit of local government. If no approval has been granted, the application shall describe the status of the approval request.

35 Ill. Admin. Code 812.105 (Note: Section 3.32 is now 3.330, but the regulation has not been updated accordingly; renumbered by P.A. 92-574, §5, eff. June 26, 2002).

81. Section 813.104 of the regulations establishes the standards for issuance of a permit, including a permit renewal or modification, stating:

[N]o permit for the development or construction of a new regional pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of said facility has been approved by the county board of the county if an unincorporated area . . . in which the facility is to be located in accordance with Section 39.2 of the Act.

35 Ill. Admin. Code 813.104(c).

82. Section 39.2(a) of the Act states, in pertinent part: "The *county board* of the county or the governing body of the municipality, as determined by paragraph (c) of Section 39 of this Act, *shall* approve or disapprove the request for local siting approval *for each pollution control facility which is subject to such review.*" 415 ILCS 5/39.2(a) (emphasis added).

83. Section 39.2(a) of the Act requires an applicant to provide "sufficient details describing the proposed facility to demonstrate compliance" with nine (9) listed criteria. A county board shall grant local siting approval only if the proposed facility meets each of those nine (9) criteria. 415 ILCS 5/39.2(a).

84. Section 39.2(a) lists the nine (9) local siting criteria (and a tenth consideration of the previous operating experience of the applicant) as follows:

(i) the facility is necessary to accommodate the waste needs of the area it is intended to serve;

(ii) the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(iii) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

(iv) (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;

(v) the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

(vi) the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;

(vii) if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

(viii) if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; for purposes of this criterion (viii), the "solid waste management plan" means the plan that is in effect as of the date the application for siting approval is filed; and

(ix) if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

The county board or the governing body of the municipality may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria (ii) and (v) under this Section.

415 ILCS 5/39.2(a).

85. The foregoing local siting criteria must be established, demonstrated and approved by the county board before a "permit for the development or construction of a new pollution control facility may be granted by the Agency." 415 ILCS 5/39(c).

86. Section 39.2(c) of the Act allows any person, including any of the Complainants herein, to "file written comment with the county board . . . concerning the appropriateness of the proposed site for its intended purpose." 415 ILCS 5/39.2(c).

87. Section 39.2 of the Act gives local governmental units the authority to assess the impact of significant alterations and modifications to the scope and nature of previously permitted landfill facilities, 415 ILCS 5/39.2, and to determine, among other things, whether "the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected." 415 ILCS 5/39.2(a)(ii).

88. The authority of local governments under Section 39.2 of the Act (and of the public, including Complainants herein, to participate and "file written comment with the county board . . . concerning the appropriateness of the proposed site for its intended purpose," 415 ILCS 5/39.2(c)) is not limited to the mere location of the original facility, but also the impact of significant alterations in the scope and nature of the previously permitted landfill facility.

3. Toxic Substance Control Act

89. Pursuant to Section 18 of TSCA, 15 U.S.C. § 2617, "nothing in [TSCA] shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance [including PCBs]"

90. In accordance with TSCA, the TSCA regulations provide that "[a]ny person storing or disposing of PCBs is also responsible for determining and complying with all other applicable Federal, State and local laws and regulations." 40 CFR § 761.50(a)(6). Respondent CLI is responsible for determining and complying with Sections 3.330(b)(3), 39(c), and 39.2 of the Act. 40 CFR § 761.50(a)(6); 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

91. Even if an applicant receives USEPA coordinated approval to dispose of PCBs at concentrations regulated by TSCA, the applicant still needs all State and local approval(s) as required by the Act.

F. CLINTON LANDFILL NO. 3

92. At all times material hereto, Clinton Landfill No. 3 has been and is a "pollution control facility" within the meaning of Section 3.330(a) of the Act, 415 ILCS 5/3.330(a).

93. Clinton Landfill No. 3, as of and since the issuance of the March 2, 2007 Permit No. 2005-070-LF, and at all times material hereto, has been and is a "permitted pollution control facility" within the meaning of Section 3.330(b)(3) of the Act, 415 ILCS 5/3.330(b)(3).

94. Clinton Landfill No. 3 was a "permitted pollution control facility" at the time CLI filed applications with the Agency requesting approvals for the Permit Renewal and Permit Modification Nos. 9 and 29.

95. Clinton Landfill No. 3 was a "permitted pollution control facility" at the time CLI filed an application with the USEPA requesting approval and authority to develop a chemical waste landfill and to dispose of waste containing polychlorinated biphenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA).

96. As part of its submissions to the Agency in Permit Modification No. 9 for the creation of the Chemical Waste Unit and for the disposal of PCB and MGP wastes, CLI represented and determined that local siting authority for the Chemical Waste Unit was not needed, even though it sought to dispose of TSCA-regulated PCBs and potentially hazardous levels of MGP waste for the first time. CLI erroneously determined that the contemplated facility was not a "new pollution control facility" under 415 ILCS 5/3.330(b) despite the fact that it was "requesting approval" to "dispose of" new types of "special" and "hazardous waste" "for the first time."

97. On information and belief, CLI's position was based on its finding that the Permit modification and renewal applications did not propose the acceptance of special or hazardous waste for the first time. 415 ILCS 5/3.330(b)(3).

98. On information and belief, CLI's position is that so long as a facility has been given prior local siting authority to dispose of any special waste, any modification to the facility (which does not implicate Section 3.330(b)(1) or (b)(2) of the Act), or any

change in the waste stream to add another type of special waste, does not make the modified facility a "new pollution control facility." 415 ILCS 5/3.330(b)(3).

99. CLI's apparent interpretation of Section 3.330(b)(3) applies only part of the section (first time disposal of any special waste), and ignores the rest of the section (permitted pollution control facility requesting approval to dispose for first time).

100. CLI's apparent interpretation and application of Section 3.330(b)(3) to Clinton Landfill No. 3 is made in isolation, in complete disregard of the legislative findings expressed in the Act, the purposes of the Act, and the plain and ordinary meaning of the clear and unambiguous statutory language of Sections 39(c), 39.2 and 3.330(b)(3) of the Act.

COUNT I
Development, Construction and Operation of Chemical Waste Unit
Without Local Siting Authority

1-100. Complainants reallege and restate Paragraphs 1-100 of the Allegations Common to All Counts of their Citizens' Complaint as and for Paragraphs 1-100 of Count I.

101. At the time CLI filed and presented for hearing its 2002 Application for local siting authority from the DeWitt County Board for the contemplated municipal solid waste facility known as Clinton Landfill No. 3, CLI was prohibited and knew it was prohibited from developing or constructing a chemical waste landfill or unit under TSCA in the contemplated municipal solid waste facility known as Clinton Landfill No. 3.

102. CLI's 2002 Application to the DeWitt County Board did not request local siting approval for the development or construction of a chemical waste landfill or unit in Clinton Landfill No. 3.

103. At no time, including but not limited to the period from 2002 to the date the instant complaint was filed, has CLI sought to file or filed a formal local-siting authority application with the DeWitt County Board pursuant to Sections 39(c) and 39.2 of the Act regarding any portion of Clinton Landfill No. 3 for approval to develop or construct a chemical waste landfill or unit in Clinton Landfill No. 3.

104. The DeWitt County Board has never been asked to give, and has never given, its siting authority pursuant to Sections 39(c) and 39.2 of the Act to CLI or any other person to develop or construct a chemical waste landfill or unit in Clinton Landfill No. 3.

105. At the time the Agency issued the March 2, 2007 Permit No. 2005-070-LF, CLI was prohibited and knew it was prohibited from developing or constructing a chemical waste landfill or unit under TSCA.

106. CLI's 2007 permit applications to the Agency for Permit No. 2005-070-LF did not request approval for the development or construction of a chemical waste landfill or unit under either 35 Ill. Admin. Code Part 811, Subpart C, or TSCA.

107. After the Agency issued the March 2, 2007 Permit No. 2005-070-LF for the municipal solid waste landfill known as Clinton Landfill No. 3, on or about October 19, 2007, CLI requested coordinated approval and authority from the USEPA pursuant to TSCA to develop, construct and operate a chemical waste landfill.

108. After the Agency issued the March 2, 2007 Permit No. 2005-070-LF for the municipal solid waste landfill known as Clinton Landfill No. 3, on or about February 1, 2008, CLI requested approval from the Agency for a significant permit modification to develop and construct a chemical waste landfill.

109. The creation of the Chemical Waste Unit in conformity with the hazardous waste facility requirements based on numerous "significant modifications" from the Application filed with the DeWitt County Board and from the original Permit issued by the Agency, constitutes a new pollution control facility under Section 3.330(b)(3) of the Act. 415 ILCS 5/3.330(b)(3).

110. The "significant modifications" included in Permit Modification Nos. 9 and 29 regarding the creation of the Chemical Waste Unit are "subject to" Section 39.2 review. 415 ILCS 5/39.2(a).

111. Sections 39(c) and 39.2 of the Act require prior local siting authority from the DeWitt County Board before CLI can create the Chemical Waste Unit as a new facility or unit or as a significant modification of an existing landfill. 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

112. From at least January 8, 2010, and continuing through the date of filing of the instant complaint, CLI has failed to obtain local siting authority from the DeWitt County Board for the development, construction and operation of the Chemical Waste Unit in Clinton Landfill No. 3, in violation of or in threatened violation of Sections 39(a), 39(c), and 39.2 of the Act. 415 ILCS 5/39(a), 39(c), and 39.2.

113. By violating or threatening to violate Sections 39(a), 39(c), and 39.2 of the Act, CLI thereby, also violated or threatens to violate Section 21(e) of the Act. 415 ILCS 5/21(e).

114. Complainants request an informal Agency investigation of the allegations set forth in Count I of the instant complaint. 35 Ill. Admin. Code 103.208.

WHEREFORE, Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL, ILLINOIS, VILLAGE OF SAVOY, ILLINOIS, and CITY OF DECATUR, ILLINOIS, respectfully request that the Board enter an order against the Respondent, CLINTON LANDFILL, INC., an Illinois corporation, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;
3. Ordering Respondent to immediately cease and desist from the identified violations of the Act, including but not limited to the closure of the Chemical Waste Unit at Clinton Landfill No. 3 in accordance with the Agency's closure plans and taking of such other immediate action to correct the violations of Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;
4. Pursuant to Section 103.208 of the Board's procedural rules, forwarding Complainants' request for an informal Agency investigation to the Agency;
5. Assessing a civil penalty against Respondent of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a); and
6. Providing for such other and further relief as the Board may deem just and proper and in the public interest.

COUNT II
Disposal of TSCA Regulated PCB Waste
Without Local Siting Authority

1-100. Complainants reallege and restate Paragraphs 1-100 of the Allegations Common to All Counts of their Citizens' Complaint as and for Paragraphs 1-100 of Count II.

101. At the time CLI filed and presented for hearing its 2002 Application for local siting authority from the DeWitt County Board for Clinton Landfill No. 3, CLI was prohibited and knew it was prohibited from disposing of "any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)" in the contemplated municipal solid waste facility known as Clinton Landfill No. 3.

102. CLI's 2002 Application to the DeWitt County Board did not request local siting approval for the disposal of "waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)."

103. At no time, including but not limited to the period from 2002 to the date the instant complaint was filed, has CLI sought to file or filed a formal local siting authority application with the DeWitt County Board pursuant to Sections 39(c) and 39.2 of the Act regarding any portion of Clinton Landfill No. 3 for approval to dispose in Clinton Landfill No. 3 "any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)."

104. The DeWitt County Board has never been asked to give, and never has given, its siting authority pursuant to Sections 39(c) and 39.2 of the Act to CLI or any other person to dispose in Clinton Landfill No. 3 "any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)."

105. At the time the Agency issued the March 2, 2007 Permit No. 2005-070-LF, CLI was prohibited and knew it was prohibited from disposing in Clinton Landfill No. 3 "any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)." See Para. 38, above.

106. CLI's 2007 permit applications to the Agency (which resulted in issuance of the March 2, 2007 Permit No. 2005-070-LF) did not request approval for the disposal of "waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)."

107. The March 2, 2007 Permit No. 2005-070-LF expressly prohibited disposal of "waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed, pursuant to the Toxic Substances Control Act (TSCA)."

108. After the Agency issued the March 2, 2007 Permit No. 2005-070-LF for the municipal solid waste landfill known as Clinton Landfill No. 3, on or about October 19, 2007, CLI requested coordinated approval and authority from the USEPA pursuant to TSCA to dispose of, for the first time, waste containing polychlorinated bi-

phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA).

109. After the Agency issued the March 2, 2007 Permit No. 2005-070-LF for the municipal solid waste landfill known as Clinton Landfill No. 3, on or about February 1, 2008, CLI requested approval from the Agency for a significant permit modification to dispose of, for the first time, waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA), subject to approval by USEPA of CLI's TSCA application.

110. The "significant modifications" included in Permit Modification Nos. 9 and 29 regarding the disposal of, for the first time, waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA) are "subject to" Section 39.2 review. 415 ILCS 5/39.2(a).

111. Waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA), and in particular as regulated pursuant to the regulations implementing TSCA found at 40 CFR Part 761, is classified as a type of "special waste" within the meaning of Section 3.475(c)(1)(C) of the Act, 415 ILCS 5/3.475(c)(1)(C).

112. Before a pollution control facility disposes of, for the first time, any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA) (without regard to it being a "new pollution control facility"), a person must first: 1) File an application with USEPA requesting coordinated approval and authority from USEPA pursuant to TSCA to dispose

of PCB's in concentrations greater than 50 ppm in a "chemical waste landfill" permitted by USEPA; 2) File permit application(s) with Agency requesting approval from Agency pursuant to the Act to develop and construct a "chemical waste landfill" and to dispose of PCB's in concentrations greater than 50 ppm therein; and 3) Receive all permit approvals and authority so requested from the USEPA and Agency.

113. CLI had to "request approval" and authority from the USEPA in order to dispose of PCB's in concentrations greater than 50 ppm for the first time. But for approval by USEPA, CLI will continue to be prohibited from disposing of PCB's in concentrations greater than 50 ppm in any portion of the Clinton Landfill No. 3.

114. CLI is requesting approval from USEPA to dispose of, for the first time, TSCA regulated PCB wastes, a special waste, which, but for USEPA approval, would not be allowed to be disposed of in the Chemical Waste Unit portion of the previously permitted pollution control facility.

115. But for the creation of the Chemical Waste Unit as alleged in Count I, herein, the Agency would not allow the disposal of TSCA regulated PCB's in any portion of Clinton Landfill No. 3.

116. CLI had to "request approval" from the Agency in order to dispose of PCB's in concentrations greater than 50 ppm for the first time. But for approval by the Agency, CLI would be prohibited from disposing of PCB's in concentrations greater than 50 ppm in any portion of the Clinton Landfill No. 3.

117. Before CLI can dispose of, for the first time, any waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the

Toxic Substances Control Act (TSCA), CLI first must submit "proof to the Agency that the location of said facility has been approved by the county board of the county if an unincorporated area . . . in which the facility is to be located in accordance with Section 39.2 of the Act." 35 Ill. Admin. Code 813.104; 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

118. Prior local siting authority from the DeWitt County Board is required for the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA) in accordance with Sections 39(c) and 39.2 of the Act as a new pollution control facility. 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

119. From at least January 8, 2010, and continuing through the date of filing of the instant complaint, CLI has failed to obtain local siting authority from the DeWitt County Board for the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of waste containing polychlorinated bi-phenyls (PCBs) at concentration greater than allowed pursuant to the Toxic Substances Control Act (TSCA), in violation of or in threatened violation of Sections 39(a), 39(c), and 39.2 of the Act. 415 ILCS 5/39(a), 39(c), and 39.2.

120. By violating or threatening to violate Sections 39(a), 39(c), and 39.2 of the Act, CLI thereby, also violated or threatens to violate Section 21(e) of the Act. 415 ILCS 5/21(e).

121. Complainants request an informal Agency investigation of the allegations set forth in Count II of the instant complaint. 35 Ill. Admin. Code 103.208.

WHEREFORE, Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL, ILLINOIS, VILLAGE OF SAVOY, ILLINOIS, and CITY OF DECATUR, ILLINOIS, respectfully request that the Board enter an order against the Respondent, CLINTON LANDFILL, INC., an Illinois corporation, with respect to Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;
3. Ordering Respondent to immediately cease and desist from the identified violations of the Act, including but not limited to the closure of the Chemical Waste Unit at Clinton Landfill No. 3 in accordance with the Agency's closure plans and taking of such other immediate action to correct the violations of Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;
4. Pursuant to Section 103.208 of the Board's procedural rules, forwarding Complainants' request for an informal Agency investigation to the Agency;
5. Assessing a civil penalty against Respondent of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a); and

6. Providing for such other and further relief as the Board may deem just and proper and in the public interest.

COUNT III
Disposal of MGP Waste Exceeding Regulatory Levels of
35 Ill. Admin. Code 721.124(b)
Without Local Siting Authority

1-100. Complainants reallege and restate Paragraphs 1-100 of the Allegations Common to All Counts of their Citizens' Complaint as and for Paragraphs 1-100 of Count III.

101. At the time CLI filed and presented for hearing its 2002 Application for local siting authority from the DeWitt County Board for Clinton Landfill No. 3, CLI was prohibited and knew it was prohibited from disposing of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)" in the contemplated municipal solid waste facility known as Clinton Landfill No. 3.

102. CLI's 2002 Application to the DeWitt County Board did not request local siting approval for the disposal of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)" in Clinton Landfill No. 3.

103. At no time, including but not limited to the period from 2002 to the date the instant complaint was filed, has CLI sought to file or filed a formal local siting authority application with the DeWitt County Board pursuant to Sections 39(c) and 39.2 of the Act regarding any portion of Clinton Landfill No. 3 to dispose of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)."

104. The DeWitt County Board has never been asked to give, and has never given, its siting authority pursuant to Sections 39(c) and 39.2 of the Act to CLI or any other person to dispose of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)."

105. At the time the Agency issued the March 2, 2007 Permit No. 2005-070-LF, CLI was prohibited and knew it was prohibited from disposing in Clinton Landfill No. 3 manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b). See Para. 37, above.

106. Manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) had traditionally been a part of the hazardous waste stream disposed of in PDC No. 1, the Peoria County RCRA Subtitle C hazardous waste facility operated by PDC/Area which was nearing maximum disposal capacity.

107. CLI's 2007 permit applications to the Agency for Permit No. 2005-070-LF) did not request approval for the disposal of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)" in Clinton Landfill No. 3.

108. The March 2, 2007 Permit No. 2005-070-LF expressly prohibited disposal of "manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b)" in Clinton Landfill No. 3.

109. After the Agency issued the March 2, 2007 Permit No. 2005-070-LF for the municipal solid waste landfill known as Clinton Landfill No. 3, on or about February 1, 2008, CLI requested approval from the Agency for a significant permit

modification to dispose of, for the first time, manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b).

110. The “significant modifications” included in Permit Modification Nos. 9 and 29 regarding the disposal of, for the first time, manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Admin Code 721.124(b) are “subject to” Section 39.2 review. 415 ILCS 5/39.2(a).

111. Manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) is classified as a type of "special waste" within the meaning of Section 3.475(b) and (c) of the Act, 415 ILCS 5/3.475(b) and (c).

112. Manufactured gas plant waste which does not exceed the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) is also classified as a type of "special waste" within the meaning of Section 3.475 of the Act, 415 ILCS 5/3.475.

113. Before a pollution control facility disposes of, for the first time,, any manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) (without regard to it being a "new pollution control facility") a person must first: 1) File permit application(s) with Agency requesting approval from Agency pursuant to the Act to develop and construct a RCRA Subtitle C hazardous waste facility and to dispose of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) therein; and 2) Receive all permit approvals so requested from the Agency.

114. CLI had to "request approval" from the Agency in order to dispose manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm.

Code 721.124(b) for the first time. But for approval by Agency, CLI will continue to be prohibited from disposing of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) in any portion of the Clinton Landfill No. 3.

115. CLI requested approval from Agency to dispose of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), a special waste, which, but for Agency approval, would not be allowed to be disposed of in the Chemical Waste Unit portion of the previously permitted pollution control facility, or in any portion of the Clinton Landfill No. 3.

116. But for the creation of the Chemical Waste Landfill as alleged in Count I, herein, the Agency would not allow the disposal of MGP exceeding the regulatory levels specified in 35 Ill. Admin. Code 721.124(b) in any portion of Clinton Landfill No. 3.

117. Before CLI can dispose of, for the first time, any manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), CLI must first submit "proof to the Agency that the location of said facility has been approved by the county board of the county if an unincorporated area . . . in which the facility is to be located in accordance with Section 39.2 of the Act." 35 Ill. Admin. Code 813.104; 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

118. Prior local siting authority from the DeWitt County Board is required for the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm.

Code 721.124(b), in accordance with Sections 39(c) and 39.2 of the Act as a new pollution control facility. 415 ILCS 5/3.330(b)(3), 39(c), 39.2.

119. From at least January 8, 2010, and continuing through the date of filing of the instant complaint, CLI has failed to obtain local siting authority from the DeWitt County Board the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), in violation of or in threatened violation of Sections 39(a), 39(c), and 39.2 of the Act. 415 ILCS 5/39(a), 39(c), and 39.2.

120. By violating or threatening to violate Sections 39(a), 39(c), and 39.2 of the Act, CLI thereby, also violated or threatens to violate Section 21(e) of the Act. 415 ILCS 5/21(e).

121. Complainants request an informal Agency investigation of the allegations set forth in Count III of the instant complaint. 35 Ill. Admin. Code 103.208.

WHEREFORE, Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL, ILLINOIS, VILLAGE OF SAVOY, ILLINOIS, and CITY OF DECATUR, ILLINOIS, respectfully request that the Board enter an order against the Respondent, CLINTON LANDFILL, INC., an Illinois corporation, with respect to Count III:

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

2. Finding that Respondent has violated Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;

3. Ordering Respondent to immediately cease and desist from the identified violations of the Act, including but not limited to the closure of the Chemical Waste Unit at Clinton Landfill No. 3 in accordance with the Agency's closure plans and taking of such other immediate action to correct the violations of Sections 21(e), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(e), 39(a), 39(c), and 39.2;

4. Pursuant to Section 103.208 of the Board's procedural rules, forwarding Complainants' request for an informal Agency investigation to the Agency;

5. Assessing a civil penalty against Respondent of not more than the statutory maximum pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a); and

6. Providing for such other and further relief as the Board may deem just and proper and in the public interest.

COUNT IV
Disposal of Hazardous Waste
(MGP Waste Exceeding Regulatory Levels of 35 Ill. Admin. Code 721.124(b))
Without RCRA Permit

1-100. Complainants reallege and restate Paragraphs 1-100 of the Allegations Common to All Counts of their Citizens' Complaint as and for Paragraphs 1-100 of Count IV.

101-121. Complainants reallege and restate Paragraphs 101-121 of Count III of their Citizens' Complaint as and for Paragraphs 101-121 of Count IV.

122. Manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) is classified as a type of "hazardous waste as defined by Illinois Administrative Code Title 35, Section 721."

123. Manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b) is classified as a type of "hazardous waste as defined by Illinois Administrative Code Title 35, Section 721," and constitutes a "hazardous waste" pursuant to Section 3.220 of the Act, 415 ILCS 5/3.220.

124. In CLI's Permit Renewal and Permit Modification Nos. 9 and 29, CLI sought to dispose of a type of hazardous waste in a portion of Clinton Landfill No. 3 for the first time.

125. The Permit modification and renewal applications proposed the acceptance of a hazardous waste for the first time.

126. But for the creation of the Chemical Waste Landfill as alleged in Count I, herein, the Agency would not allow the disposal of MGP exceeding the regulatory levels specified in 35 Ill. Admin. Code 721.124(b) in any portion of Clinton Landfill No. 3.

127. Prior local siting authority from the DeWitt County Board is required for the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of hazardous manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), in accordance with Sections 39(c) and 39.2 of the Act as a new pollution control facility. 415 ILCS 5/3.330(b)(3), 39(c), 39.2; see also required local siting regulations for a RCRA Subtitle C hazardous facility at 35 Ill. Admin. Code 702.185 and 703.273; see also 415 ILCS 5/39.3.

128. At no time material hereto has a RCRA Permit been issued to CLI or any other person pursuant to Section 39(d) of the Act for Clinton Landfill No. 3 or any portion of it. 415 ILCS 5/39(d).

129. Any disposal of hazardous manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), violates Sections 21(f) of the Act because Clinton Landfill No. 3 does not have a hazardous waste disposal facility "RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act" 415 ILCS 5/21(f).

130. CLI designed the Chemical Waste Unit to exceed the design and operating requirements for hazardous waste disposal facilities. See 35 Ill. Admin. Code 724.401(c).

131. The Agency has published documents indicating that the Chemical Waste Unit "meets design standards for a hazardous waste landfill."

132. Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations, 35 Ill. Admin. Code 703.121(a) and (b), provide, in pertinent part, as follows:

- 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 HMW (hazardous waste management) facility;

* * * * *

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

133. As a result of CLI's operation of the Chemical Waste Unit, CLI was and is a "person" conducting, owning and operating a "hazardous waste disposal operation" without a "RCRA permit" at a "hazardous waste management facility" as those terms are defined in Section 702.110 of the Board's Waste Disposal Regulations, 35 Ill. Admin. Code 702.110.

134. From at least January 8, 2010, and continuing through the date of filing of the instant complaint, CLI has failed obtain a RCRA permit pursuant to Section 39(d) of the Act and pursuant to Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations for the disposal in the Chemical Waste Landfill or in any part of Clinton Landfill No. 3 of hazardous waste in the form of manufactured gas plant waste exceeding the regulatory levels specified in 35 Ill. Adm. Code 721.124(b), in violation of or in threatened violation of Sections 39(a), 39(c), 39(d) and 39.2 of the Act. 415 ILCS 5/39(a), 39(c), 39(d) and 39.2.; 35 Ill. Admin. Code 703.121(a) and (b).

135. By violating or threatening to violate Sections 39(a), 39(c), 39(d) and 39.2 of the Act, and 35 Ill. Admin. Code 703.121(a) and (b), CLI thereby, also violated or threatens to violate Section 21(f) of the Act. 415 ILCS 5/21(f).

136. Complainants request an informal Agency investigation of the allegations set forth in Count IV of the instant complaint. 35 Ill. Admin. Code 103.208.

WHEREFORE, Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL, ILLINOIS, VILLAGE OF SAVOY, ILLINOIS, and CITY OF DECATUR, ILLINOIS, respectfully request that the Board enter an order against the Respondent, CLINTON LANDFILL, INC., an Illinois corporation, with respect to Count IV:

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

2. Finding that Respondent has violated Sections 21(f), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(f), 39(a), 39(c), and 39.2;

3. Ordering Respondent to immediately cease and desist from the identified violations of the Act, including but not limited to the closure of the Chemical Waste Unit at Clinton Landfill No. 3 in accordance with the Agency's closure plans and taking of such other immediate action to correct the violations of Sections 21(f), 39(a), 39(c), and 39.2 of the Act, 415 ILCS 5/21(f), 39(a), 39(c), and 39.2;

4. Pursuant to Section 103.208 of the Board's procedural rules, forwarding Complainants' request for an informal Agency investigation to the Agency;

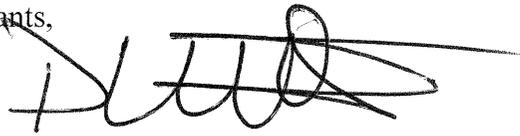
5. Assessing a civil penalty against Respondent of Twenty-Five Thousand Dollars (\$25,000.00) per day of violation of Section 21(f) of the Act, 415 ILCS 5/41(b)(3); and

6. Providing for such other and further relief as the Board may deem just and proper and in the public interest.

Respectfully submitted,

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF DECATUR,
ILLINOIS, a municipal corporation,

Complainants,

By: 

David L. Wentworth II

David L. Wentworth II
David B. Wiest
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hwgsb.com
dwiest@hwgsb.com

By: 

Albert Ettinger

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

MAHOMET VALLEY WATER AUTHORITY, Complainant

Robert F. Lieb (Signature)
By: ROBERT F. LIEB (Print Name)
Its: CHAIRMAN (Title)

Subscribed to and sworn before me this 23rd day of October 2012

[Signature]
Notary Public
My commission expires: _____



CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation, Complainant

Steven Carter (Signature)
By: STEVEN C CARTER (Print Name)
Its: CITY Manager (Title)

Subscribed to and sworn before me this 25th day of October 2012.

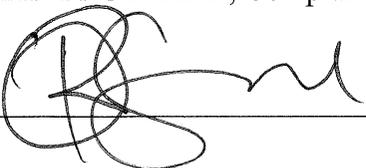
Michele L. Luecke
Notary Public
My commission expires: _____



CERTIFICATION

I, the undersigned Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

DONALD R. GERARD, Complainant


_____ (Signature)

Subscribed to and sworn before me this 24th day of October 2012.



Notary Public

My commission expires: _____



I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

CITY OF URBANA, ILLINOIS, a municipal corporation, Complainant

By: *Janel Hunt Prussing* (Signature)
 Janel Hunt Prussing (Print Name)
Its: *Mayor* (Title)

Subscribed to and sworn before me this *25th* day of October 2012.

Diane Marie Fileccia
Notary Public
My commission expires: *4/26/15*



CERTIFICATION

I, the undersigned Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

LAUREL LUNT PRUSSING, Complainant

Laurel Lunt Prussing (Signature)

Subscribed to and sworn before me this 25th day of October 2012.

Diane Marie Fileccia
Notary Public
My commission expires: 4/26/15



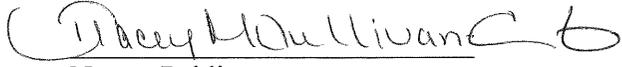
CERTIFICATION

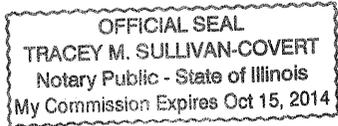
I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation, Complainant

 (Signature)
By: David A. Hales (Print Name)
Its: City Manager (Title)

Subscribed to and sworn before me this thrd ^{November} day of ~~October~~ 2012.


Notary Public
My commission expires: Oct 15, 2014



CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

COUNTY OF CHAMPAIGN, ILLINOIS, Complainant

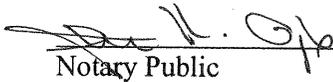


By: JULIA RIETZ (Signature)

Its: STATE'S ATTORNEY (Print Name)

(Title)

Subscribed to and sworn before me this 30th day of October 2012.



Notary Public

My commission expires: 5/29/13



CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

COUNTY OF PIATT, ILLINOIS, Complainant

Dana Rhoades (Signature)
By: Dana Rhoades (Print Name)
Its: State's Attorney (Title)

Subscribed to and sworn before me this 5th day of November ~~October~~ 2012.

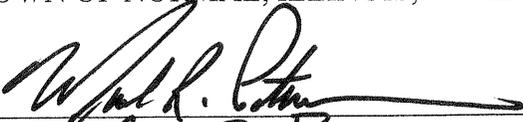
Therese Ann Shonkwiler
Notary Public
My commission expires: 08/15/13



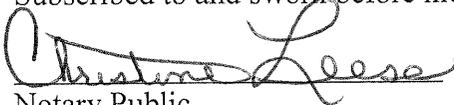
CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

TOWN OF NORMAL, ILLINOIS, a municipal corporation, Complainant

 (Signature)
By: MARK R. PETERSON (Print Name)
Its: CITY MANAGER (Title)

Subscribed to and sworn before me this 27th day of October 2012.


Notary Public

My commission expires: 11-30-14



CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, Complainant

Robert C. McCleary (Signature)
By: Robert C. McCleary (Print Name)
Its: Village President (Title)

Subscribed to and sworn before me this 24th day of October 2012.

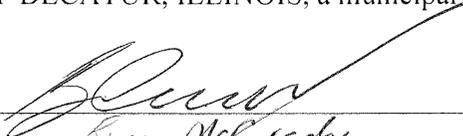
Billie J. Krueger
Notary Public
My commission expires: 5-24-2013



CERTIFICATION

I, the undersigned, on behalf of Complainant, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

CITY OF DECATUR, ILLINOIS, a municipal corporation, Complainant

 (Signature)
By: Ryan McClady (Print Name)
Its: City Manager (Title)

Subscribed to and sworn before me this 30th day of October 2012.


Notary Public
My commission expires: 11-7-2012



NOTICE TO RESPONDENT

NOTE: THIS STATEMENT MUST BE INCLUDED IN THE SERVICE OF THE FORMAL COMPLAINT ON THE RESPONDENT

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

Please take notice that today I filed with the Clerk of the Illinois Pollution Control Board (Board) a formal complaint, a copy of which is served on you along with this notice. You may be required to attend a hearing on a date set by the Board.

Information about the formal complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*) and the Board's procedural rules (35 Ill. Adm. Code 101 and 103). These can be accessed at the Board's Web site (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules. It is provided for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation:

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this formal complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202). "Duplicative" means that an identical or substantially similar case is already pending before the Board or in court. *See* 35 Ill. Adm. Code 103.212(a) and item 10 of the formal complaint.

"Frivolous" means that the formal complaint seeks relief that the Board does not have the authority to grant, or fails to state a cause of action upon which the Board can

grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. *See* 35 Ill. Adm. Code 103.212(a) and items 5 and 9 of the formal complaint.

If you believe that this formal complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you were served with the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. If you need more time than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after service of the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the complaint is duplicative or frivolous will stay the 60-day period for filing an answer to the complaint. *See* 35 Ill. Adm. Code 103.204, 103.212(b).

All motions filed with the Board's Clerk must include an original, nine copies, and proof of service on the other parties. Service may be made in person, by U.S. mail, or by messenger service. Mail service is presumed complete four days after mailing. *See* 35 Ill. Adm. Code 101.300(c), 101.302, 101.304.

If you do not respond to the Board within 30 days after the date on which the complaint was served on you, the Board may find that the complaint is not duplicative or

frivolous and accept the case for hearing. The Board will then assign a hearing officer who will contact you to schedule times for telephone status conferences and for hearing. *See* 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an answer to this formal complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an answer within 60 days after the Board rules on your motion. *See* 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

The Board's procedural rules require the complainant to tell you as respondent that:

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. 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. *See* 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless

wish to have an attorney prepare an answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file your answer or any other document with the Board. The Board will pay any hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3629.

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