

IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS
CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
General of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
TOWN & COUNTRY UTILITIES, INC.,)
a Maryland corporation, KANKAKEE)
REGIONAL LANDFILL, LLC, a limited liability)
company, EDWARD F. HEIL, an individual)
and THOMAS A. VOLINI, an individual and)
as President of Town & Country Utilities, Inc.)
)
Defendants.)

No. 07 CH 303

FILED

JUL 20 2009

Katherine Thomas
CIRCUIT COURT CLERK

CONSENT ORDER WITH SETTLING DEFENDANT
KANKAKEE REGIONAL LANDFILL, LLC

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and Defendant, KANKAKEE REGIONAL LANDFILL, LLC, (“Settling Defendant”) (“Parties to the Consent Order”) have agreed to the making of this Consent Order and submit it to this Court for approval.

I. INTRODUCTION

This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Court’s entry of the Consent Order and issuance of any injunctive relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 *et*

seq. (2006), and the Illinois Pollution Control Board (“Board”) Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the parties to this Consent Order that it be a final judgment on the merits of this matter.

A. Parties

1. On June 28, 2007, a complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2006), against the Defendants, Town & Country Utilities, Inc., Thomas A. Volini, Edward F. Heil, and Kankakee Regional Landfill, LLC (“Complaint”).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2006).

3. At all times relevant to the Complaint, the Settling Defendant, Kankakee Regional Landfill, LLC (“KRL”), has been and is a limited liability company registered in good standing with the Illinois Secretary of State and duly authorized to do business in the State of Illinois. Its corporate office is located at 1620 East Chicago Ave., East Chicago, Lake County, Indiana. At all times relevant to the Complaint, KRL leased and later owned property located southwest of the intersection of South 1000W Road and West 3500S Road in the City of Kankakee, Kankakee County, Illinois (“Site”).

B. Allegations of Non-Compliance

Plaintiff contends that the Settling Defendant has violated the following provisions of the Act and Board Regulations:

- Count I: OPEN DUMPING
Violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2006);

- Count II: CONDUCTING A WASTE DISPOSAL OPERATION AND OPERATING A LANDFILL WITHOUT A PERMIT
Violation of Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2) (2006), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);

- Count III: DISPOSAL OF WASTE AT AN UNPERMITTED SITE
Violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2006);

- Count IV: CAUSING OR ALLOWING LITTER AND THE DEPOSITION OF CONSTRUCTION OR DEMOLITION DEBRIS
Violation of Sections 21(p)(1) and (7) of the Act, 415 ILCS 5/21(p)(1) and (7) (2006).

C. Non-Admission of Violations

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

D. Compliance Activities to Date

As of the date of entry of this Consent Order, the Settling Defendant has removed all construction and demolition debris from the Site.

II. APPLICABILITY

This Consent Order shall apply to and be binding upon the Parties to the Consent Order, and any officer, director, agent, or employee of the Settling Defendant, as well as any successors or assigns of the Settling Defendant. The Settling Defendant waives as a defense to any enforcement action taken pursuant to this Consent Order the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Consent Order.

III. JUDGMENT ORDER

This Court has jurisdiction of the subject matter herein and of the Parties to the Consent Order and, having considered the stipulated facts and being advised in the premises, finds the following relief appropriate:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. Penalty

The Settling Defendant, KRL, shall pay a civil penalty of Twenty-five Thousand Dollars (\$25,000.00). Payment shall be tendered to the Plaintiff at the time of entry of the Consent Order.

B. Payment Procedures

All payments required by this Consent Order shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). The name, case number and the Settling Defendant, KRL's, federal tax identification number shall appear on the face of the certified check or money order.

C. Future Compliance

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

2. This Consent Order in no way limits or affects the responsibilities of the Settling Defendant to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. The Settling Defendant, KRL, shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

D. Enforcement of Consent Order

This Consent Order is a binding and enforceable order of this Court. This Court shall retain jurisdiction of this matter and shall consider any motion by Plaintiff or Settling Defendant for the purposes of interpreting and enforcing the terms and conditions of this Consent Order. The Settling Defendant agrees that notice of any subsequent proceeding to enforce this Consent Order may be made by mail and waive any requirement of service of process.

E. Release from Liability

In consideration of the Settling Defendant, KRL's, payment of a \$25,000.00 penalty, its commitment to cease and desist as contained in Section III.C. above, and completion of all activities required hereunder, the Plaintiff releases, waives and discharges the Settling Defendant from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Plaintiff's Complaint filed on June 28, 2007. The Plaintiff reserves and this Consent Order is without prejudice to, all rights of the State of Illinois against the Settling Defendant with respect to all other matters, including but not limited to the following:

- a. criminal liability;
- b. liability for future violations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. the Settling Defendant's failure to satisfy the requirements of this Consent Order.

Nothing in this Consent Order is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), other than the Settling Defendant.

F. Execution and Entry of Consent Order

This Order shall become effective only when executed by all Parties to the Consent Order and the Court. This Order may be executed by the parties to the Consent Order in one or more

counterparts, all of which taken together shall constitute one and the same instrument. The undersigned representatives for each Party to the Consent Order certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Consent Order and to legally bind them to it.

WHEREFORE, the Parties to the Consent Order, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

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AGREED:

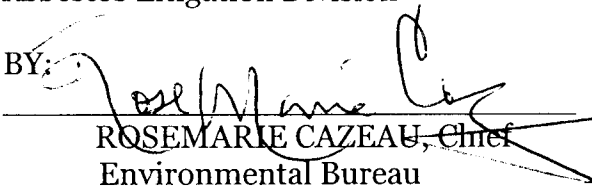
FOR THE PLAINTIFF:

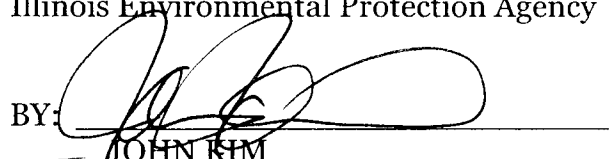
PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN KIM
Chief Legal Counsel

DATE: 5/29/09

DATE: 6/3/09

FOR THE DEFENDANT:

KANKAKEE REGIONAL LANDFILL, LLC

BY: _____
Title: _____

DATE: _____

FILED
JUL 20 2009
Kathryn Thomas
CIRCUIT COURT CLERK

ENTERED:

JUDGE

DATE

AGREED:

FOR THE PLAINTIFF:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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MATTHEW J. DUNN, Chief
Environmental Enforcement/
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DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY:

BY: _____

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

JOHN KIM
Chief Legal Counsel

DATE:

DATE: _____

FOR THE DEFENDANT:

KANKAKEE REGIONAL LANDFILL, LLC

BY: *Fred B. Barlow*
Title: MANAGER

DATE: 6-22-09

ENTERED:

Kenneth C. Lange
JUDGE

DATE