

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CATHERINE THOMAS, d/b/a THOMAS)
12th STREET DISPOSAL,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

PCB 10-52
(Permit Appeal-Land)

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STATE OF ILLINOIS
Pollution Control Board

**AMENDED PETITION TO REVIEW THE DENIAL OF
SUPPLEMENTAL PERMIT APPLICATION LOG NOS. 2007-300-SP,
2007-497, 2009-460 and 2009-595 BY THE ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY**

The Petitioner CATHERINE THOMAS d/b/a Thomas 12th Street Disposal hereby appeals the denial of supplemental permits by the Illinois Environmental Protection Agency, pursuant to 35 Ill. Adm. Code 105.100 et seq., stating as follows:

Supplemental Permit No. 2007-300-SP

1. On December 3, 2009, the Illinois Environmental Protection Agency issued Supplemental Permit No. 2007-300-SP (to original Permit No. 1974-44-DE/OP) to Catherine Thomas d/b/a Thomas 12th Street Disposal. (A copy of Supplemental Permit No. 2007-300-SP is attached to this Petition as Petitioner's Exhibit 1).
2. The permit was served on Catherine Thomas on December 7, 2009.
3. The Petitioner, through counsel, requested a 90-day extension from the Illinois Environmental Protection Agency on January 6, 2010.
4. The Illinois Environmental Protection Agency and the Petitioner joined in requesting a 90-day extension of the Board on January 11, 2010.
5. The Board on January 21, 2010 granted the request for the extension and extended the deadline until April 11, 2010.
6. The Petition for Review was accepted by the Illinois Pollution Control Board on April 15, 2010.

Revision to Post-Closure Care Cost Estimates

7. On January 29, 2010, the Illinois Environmental Protection Agency denied Supplemental Permit Application Log No. 2007-497 (to original Permit No. 1974-44-DE/OP) to Catherine Thomas d/b/a Thomas 12th Street Disposal. (A copy of the denial of the Supplemental Permit Application Log No. 2007-497 is attached to this Petition as Petitioner's Exhibit 1).

8. The denial was served on Catherine Thomas on February 2, 2010.

9. The Petitioner, through counsel, requested a 90-day extension from the Illinois Environmental Protection Agency on March 3, 2010.

10. The Illinois Environmental Protection Agency and the Petitioner joined in requesting a 90-day extension of the Board on March 8, 2010.

11. The Board on March 18, 2010 granted the request for the extension and extended the deadline until June 7, 2010.

12. The Petition for Review was accepted by the Illinois Pollution Control Board on June 17, 2010.

Certificate of Completion of Post-Closure Care

13. On March 4, 2010, the Illinois Environmental Protection Agency denied Supplemental Permit Application Log No. 2009-460 (to original Permit No. 1974-44-DE/OP) to Catherine Thomas d/b/a Thomas 12th Street Disposal. (A copy of the denial of the Supplemental Permit Application Log No. 2009-460 is attached to this Petition as Petitioner's Exhibit 1).

14. The denial was served on Catherine Thomas on March 15, 2010.

15. The Petitioner, through counsel, requested a 90-day extension from the Illinois Environmental Protection Agency on April 6, 2010.

16. The Illinois Environmental Protection Agency and the Petitioner joined in requesting a 90-day extension of the Board on April 7, 2010.

17. The Board on April 15, 2010 granted the request for the extension and extended the deadline until July 18, 2010.

18. The Petition for Review was accepted by the Illinois Pollution Control Board on August 5, 2010.

Release of Financial Assurance Funds

19. On March 24, 2010, the Illinois Environmental Protection Agency denied Supplemental Permit Application Log No. 2009-595 (to original Permit No. 1974-44-DE/OP) to Catherine Thomas d/b/a Thomas 12th Street Disposal. (A copy of the denial of the Supplemental Permit Application Log No. 2009-595 is attached to this Petition as Petitioner's Exhibit 1).

20. The denial was served on Catherine Thomas on April 1, 2010.

21. The Petitioner, through counsel, requested a 90-day extension from the Illinois Environmental Protection Agency on April 13, 2010.

22. The Illinois Environmental Protection Agency and the Petitioner joined in requesting a 90-day extension of the Board on April 21, 2010.

23. The Board on May 6, 2010 granted the request for the extension and extended the deadline until August 4, 2010.

24. The Petition for Review was accepted by the Illinois Pollution Control Board on August 19, 2010.

25. The denials of Supplemental Permit Application 2007-300-SP, 2007-497, 2009-460 and 2009-595 was improper based on the following:

Illinois EPA Log No. 2007-300/PCB Case #2010-052

Illinois EPA application Log No. 2007-300, submitted July 11, 2007, proposed assessment monitoring activities documented in the April 11, 2007 Compliance Commitment Agreement (CCA) and the May 10, 2007 CCA approval letter.

Due to observed exceedences of a few parameters in specific wells, the subject application proposed to perform surface water analysis to evaluate the potential of an impact to the groundwater from probable upgradient sources. During the course of the review of the application, the Illinois EPA issued several draft denials requesting that additional assessment monitoring activities be proposed in addition to the surface water evaluation. Because the requests for the additional investigations were beyond the content of the CCA, no additional assessment monitoring activities were proposed. On December 3, 2009 the Illinois EPA issued Supplemental Permit 2007-300-SP and interjected additional assessment activities for monitoring wells G111, G113, G114, G115, and G117, which were never proposed or committed to in any document submitted to the Illinois EPA. All additional activities requested by the Illinois EPA were included in Conditions 23, 25, and 26 of Attachment A to Supplemental Permit No. 2007-300-SP.

The specific issues for appeal to the issuance of Supplemental Permit No. 2007-300-SP are provided below.

1. Application No. 2007-300 was submitted pursuant to the CCA in response to Violation Notice L-2006-01433. The CCA was specific to what assessment activities would be implemented. Additional borings/wells were not included in the CCA. The Illinois EPA required additional activities beyond those proposed by the CCA via permit Condition Nos. 23, 25, and 26 of Attachment A.
2. In addition to the surface water evaluation proposed in the original application, Condition 23 requires assessment monitoring be conducted the first quarter 2010 for monitoring wells G111, G113, G114, G115, and G117. Assessment monitoring for these wells was neither proposed nor committed to in any response to the Illinois EPA. It appears the Illinois EPA arbitrarily added this requirement to Condition No. 23. The application specifically stated, "further/continued assessment, if necessary, shall be based on the results of the proposed investigation. A continuation of quarterly assessment may be proposed dependent upon the results of the proposed investigation" (January 27, 2009 addendum). This was reiterated again in the following addendum dated July 14, 2009.
3. The wording of the last sentence of Condition 23 was also not proposed. The Illinois EPA stated, "A detailed groundwater investigation proposal will be required in the assessment monitoring report which will include assessment groundwater monitoring wells or groundwater obtained through direct push technology to demonstrate and confirm a migration pathway and to adequately define a contamination plume potentially impacting wells G113, G114, G115, G116, and G117 from a possible upgradient source." A commitment to this type of additional groundwater investigation was previously requested by the Illinois EPA in the first three issued draft denials during the review period of Log No. 2007-300. In each response the applicant declined to commit to any additional groundwater investigation. The application specifically stated, "further/continued assessment, if necessary, shall be based on the results of the proposed investigation. A continuation of quarterly assessment may be proposed dependent upon the results of the proposed investigation" (January 27, 2009 addendum). This was reiterated again in the following addendum (July 14, 2009).
4. Condition 25 requires interwell and intrawell background values for all inorganic parameters be developed using the earliest first four quarters of data for Lists 1, 2, and 3 inorganic parameters. Interwell and intrawell values were calculated during the first year of monitoring for all dissolved inorganic parameters in accordance with the methodology provided in Attachment B to the permit. Background concentrations for total constituents were never required. Dissolved concentrations are compared to the background values obtained from four consecutive quarters of data. The total parameters have been compared to the 35 Illinois Administrative Code (Ill. Adm. Code) 620 Class VI standards (downgradient wells) and Class I standards (upgradient well G111), and the organic compounds are compared to the practical quantitation limits (PQLs).

5. Condition 26 requires semiannual monitoring of total boron at G113 and total chromium at G116, unless it can be demonstrated by the calculation of interwell and intrawell values that these concentrations are naturally occurring. This was not proposed in the application.
6. Condition 26 also requires, "semi-annual monitoring of organic parameters 1,1-dichloroethane (9 ug/l), chlorobenzene (3.2 ug/l), and toluene (3.6 ug/l)," utilizing the respective PQL. "If first quarter 2010 concentrations are non-detect, these organic parameters may revert to annual sampling." Quarterly monitoring of total boron, total chromium, 1,1-dichloroethane, chlorobenzene, and toluene were requested by the Illinois EPA in draft denials received during the review period of Log No. 2007-300. The applicant declined to add these parameters to the quarterly monitoring list and included appropriate justification as part of Addendums 4 and 5. 1,1-dichloroethane was last tested during the fourth quarter 2006 resulting in a concentration of 9 ug/l in G114. It was not deemed an exceedence because it did not exceed two times the PQL (5 ug/l) for a single parameter in a well. Chlorobenzene was last detected during the second quarter of 2003 resulting in a concentration of 3.2 ug/l in well G113. In nine subsequent sampling events, the parameter was not detected. The Illinois EPA's contention was that the method detection limit (MDL) was elevated from 2 to 5 ug/l, possibly masking its presence. Toluene was last detected during the fourth quarter 1999 at 3.6 ug/l in well G114. There have been 24 subsequent sampling periods without a detection, including 14 sampling events where the MDL was 1 ug/l.

Illinois EPA personnel contend that the facility is "masking" the presence of VOCs by using a higher MDL than what was used before. The MDLs are lab specific and increased slightly when the lab changed from Teklab to PDC Laboratories. This change in laboratories was strictly financial in nature to the owner and was inconsequential to actual analyses. MDLs are not regulatory limits or standards, but indicate equipment sensitivity to detection of a specific parameter. Additionally, the Illinois EPA philosophy changed with respect to use of the MDL. As part of the rule revisions to 35 Ill. Adm. Code Section 811.320.(e)(3), "The level of detection for each constituent shall be the practical quantitation limit (PQL), and shall be the lowest concentration that is protective of human health and the environment, and can be achieved within specified limits of precision and accuracy during routine laboratory operating conditions." Detections below the PQL are deemed protective of human health and the environment.

Parameters that were detected below the PQL cannot be considered an exceedence. Prior to analyzing a sample, the laboratory must properly calibrate the equipment to ensure the accuracy of the analysis. The calibration provides the minimum and maximum values at which the equipment can accurately determine the concentration of a parameter within a subject sample; the minimum value must be equal to or greater than the quantitation limit (reporting limit). Any value provided by the equipment that is above the maximum or below the minimum value cannot be deemed accurate

and are not recognized by any certified laboratory. As stated in revision 2 to Method 8000B (which is utilized as a guidance document for all SW-846 methods), "The extrapolation of the calibration to concentrations above or below those of the actual calibration standards is not appropriate and may lead to significant quantitative errors regardless of the calibration model chosen." Therefore, it is inappropriate to consider "detections below the quantitation limit" to be true detections, exceedences or impacts. In addition, the detection of a parameter (above or below the quantitation limit) does not constitute a significant change in groundwater quality. The criteria for determining a change in groundwater quality (or exceedence) are outlined in Condition No. 6 of Attachment A to Supplemental Permit No. 2005-048-SP. Condition No. 6 states, "For organic parameters listed in 35 IAC Part 724, Appendix I and as referenced in List 3 of this Attachment, two (2) times the Practical Quantitation Limit (PQL) for a single parameter or any two or more parameters exceed the PQL in the same well."

Ancillary Information Pertaining to Illinois EPA Log No. 2007-300

1. Furthermore, Illinois EPA personnel have cited 35 Ill. Adm. Code Section 807.313 as a reason why the Thomas 12th Street Disposal facility will not be released from post-closure care. The referenced rule states:

No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act.

Illinois EPA personnel stated that due to past organic parameter detections at facility monitor wells, the landfill would not be released from post-closure care. It was specifically stated that the rule does not "allow the discharge of any contaminants into the environment." Therefore, any organic detection infers a violation of the rule and the site cannot be released from post-closure care. The latter part of the sentence, "so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act," implies that groundwater concentrations must exceed applicable standards in order to be considered water pollution. If the parameter concentrations do not exceed standards or permitted limits, then there is no pollution to the water. The presence of a constituent below regulatory or permitted standards does not constitute pollution.

2. The downgradient monitor wells have been demonstrated to contain Class IV groundwater pursuant to 35 Ill. Adm. Code Section 620.240. The Illinois EPA, however, requires the facility to compare VOC analyses to PQLs, which are considerably more restrictive than the Class IV groundwater

quality standards. The Illinois EPA reported in the denial to Log No. 2009-460 that dichloromethane exceeded the PQL of 0.2 ug/l in well G114 during the second quarters of 2005 and 2006. The Class IV standard for dichloromethane is 50 ug/l, which negates the exceedence. This is also true for xylenes (PQL of 5 ug/l and Class IV standard of 10,000 ug/l), phenols (PQL of 5 ug/l and Class IV standard of 100 ug/l), and 2,4,5-TP (PQL of 0.2 ug/l and Class IV standard of 250 ug/l).

The evaluation of the organic parameters is dictated by Condition 6.c of Attachment A to the permit. It specifically states, "for organic parameters listed in 35 IAC Part 724, Appendix I and as referenced in List 3 of this Attachment, two (2) times the Practical Quantitation Limit (PQL) for a single parameter or any two or more parameters exceed the PQL in the same well." The draft denial for Log No. 2009-460 lists parameters "that are indicative of groundwater impacts caused by Thomas 12th Street Disposal," the following were noted as actual exceedences (dating back to 1988).

Well	Event	Parameter	Result	PQL	Class IV
G113	2Q2001	Chlorobenzene	5.02	5.0	NA
G113	2Q2001	2,4,5-TP	0.24	0.2	250
G113	1Q1988	Phenols	51	5.0	100
G113	2Q1998	Phenols	12	5.0	100
G113	1Q2003	Phenols	11	5.0	100
G113	4Q2003	Phenols	37	5.0	100
G113	1Q2004	Phenols	20	5.0	100
G113	4Q2007	Phenols	64	5.0	100
G114	4Q1987	Phenols	11	5	100
G114	2Q2005	Dichloromethane	0.6	0.2	50
G114	2Q2006	Dichloromethane	0.9	0.2	50
G115	2Q1999	Phenols	80	5	100
G115	1Q2004	Phenols	11	5	100
G116	2Q2005	Dichloromethane	0.7	0.2	50
G117	2Q2005	Dichloromethane	0.7	0.2	50
G117	2Q2006	Dichloromethane	0.8	0.2	50

All concentrations are in ug/l.

Based on the Class IV standards, there were no organic exceedences. The Class IV standards should be applicable for the organic constituents as well as inorganic constituents. The rule shown below states in Section 620.440(c) "the standards set forth in Section 620.420 must not be exceeded, except for concentrations of TDS, chloride, iron, manganese, sulfates, or pH. For concentrations of TDS, chloride, iron, manganese, sulfates, or pH, the standards are the existing concentrations. For reference, Section 620.440 is provided below.

Section 620.440 Groundwater Quality Standards for Class IV: Other Groundwater

- a) Except as provided in subsections (b) or (c), Class IV: Other Groundwater standards are equal to the existing concentrations of constituents in groundwater.
- b) For groundwater within a zone of attenuation as provided in 35 Ill. Adm. Code 811 and 814, the standards specified in Section 620.420 must not be exceeded, except for concentrations of contaminants within leachate released from a permitted unit.
- c) For groundwater within a previously mined area, the standards set forth in Section 620.420 must not be exceeded, except for concentrations of TDS, chloride, iron, manganese, sulfates, or pH. For concentrations of TDS, chloride, iron, manganese, sulfates, or pH, the standards are the existing concentrations.

Illinois EPA Log No. 2007-497/PCB Case #2010-069

The requirements regarding financial assurance for closure and post-closure care are outlined in 35 Ill. Adm. Code 807, Subpart F. The post-closure care cost estimate was submitted to the Illinois EPA in a December 4, 2007 application and in addendums dated April 16, 2008 and May 21, 2008. Based on the Illinois EPA's January 29, 2010 letter, the permit application to revise the post-closure care cost estimate was denied.

The Illinois EPA's rationale for issuance of the denial is provided as:

1. Pursuant to 35 Ill. Adm. Code 807.622(d), post-closure care cost estimates must include all groundwater monitoring parameters at the frequency indicated in the permit. This application failed to meet this regulation. The cost estimate of \$35,606.00 proposed in the application assumes that only detection groundwater monitoring will need to be done during the remainder of the post-closure care period. However, there are groundwater exceedences in the vicinity of this landfill and a groundwater assessment must be done as described in Supplemental Permit No. 2007-300-SP. Therefore, estimates should be calculated incorporating the assessment monitoring required by supplemental permit No. 2007-300-SP.

The requirement for additional groundwater assessment activities is a subject of this ongoing appeal (Supplemental Permit No. 2007-300-SP). The post-closure care cost estimate provided as Log No. 2007-497 sufficiently addressed the requirements outlined in 35 Ill. Adm. Code 807.622(d). Specifically, the provided post-closure cost estimate included the following elements:

1. The number of years of post-closure care required.

2. Groundwater monitoring:
 - a. Number of monitoring points;
 - b. Parameters to be monitored;
 - c. Frequency of sampling;
 - d. Cost per parameter per sampling.

3. Cover stabilization:
 - e. Estimate of the area which is expected annually to require residual settlement or erosion control work;
 - f. Annual cost of residual settlement and erosion control work;
 - g. Annual cost of mowing.

The cost estimate for assessment activities beyond routine groundwater sampling and cover stabilization was provided in addendums dated April 16, 2008 and May 21, 2008. These addendums provided estimated costs associated with additional groundwater sampling and analyses costs associated with the proposed assessment monitoring plan (Log No. 2007-300).

However, Supplemental Permit No. 2007-300-SP contained assessment activities that were not proposed as part of the application. The costs to complete the assessment activities associated with the imposed permit conditions were not included as part of the proposed post-closure care costs.

Furthermore, 35 Ill. Adm. Code 807.622(e) specifically states that Section 807.622 does not grant authority to the Illinois EPA to require the operator to perform any of the indicated activities; however, if the site permit requires a closure activity, the operator must include the cost estimate. Once the operator has completed an activity, the operator may file a permit application indicating that the activity has been completed, and zeroing that element of the cost estimate.

Additionally, Section 807.622 (a) (Cost Estimate for Post-Closure Care) states "The post-closure care cost estimate is calculated by multiplying the annual cost estimate by the number of years of post-closure care required by this Part." The regulation does not address assessments or site investigations. Because these are typically done on an as-needed basis, costs incurred are typically accounted for at the time of the investigations.

Section 807.623 (b) states "The operator must review the closure and post-closure care plans prior to filing a revised cost estimate in order to determine whether they are consistent with the current operations and regulations." The approved Post-Closure Care Plan does not mandate or suggest the cost estimates need to be revised to account for unforeseen site assessments. The application Log No. 2007-497 was consistent with the latest approved Post-Closure Care Plan.

Illinois EPA Log No. 2009-460/PCB Case #2010-080

The Affidavit must be evaluated pursuant to 35 IAC 807.524(c), which states:

“The Agency shall certify that the post-closure care period has ended when it determines:

- 1. That the post-closure care plan had been completed; and*
- 2. That the site will not cause future violations of the Act or this part.”*

The Illinois EPA ruled that the facility did not meet the requirements for completion of post-closure care with the issuance of the denial. The denial (March 4, 2010) listed three points:

- 1. Point No. 1 stated the landfill was a probable source of a list of contaminants identified for each well. [The denial point is not restated verbatim since it is three and a half pages in length due to the parameter list.] The list was taken from that presented in a draft denial for Illinois EPA Application Log No. 2005-265. It was updated to account for any detections above PQLs (organic compounds) or background concentrations (inorganic compounds).*

The additional parameters were:

- G113 – Phenols (3rd quarter 2007, 4th quarter 2007, 4th quarter 2008, and 2nd quarter 2009)
Boron (2nd quarter 2007, 2nd quarter 2008, and 2nd quarter 2009)
Dissolved Chloride (3rd quarter 2007 and 4th quarter 2007)*
- G114 – Phenols (1st quarter 2009)
Dissolved Sulfate (consistently through 4th quarter 2009)*
- G115 - Dissolved Sulfate (consistently through 4th quarter 2009)*
- G116 – Chromium 2nd quarters of 2007, 2008, and 2009)*
- G117 – Dissolved Chloride (consistently exceeds background through 4th quarter 2009)
Dissolved Sulfate (consistently through 4th quarter 2009)
Total Dissolved Solids (consistently exceeds background through 4th quarter 2009)*

It must be noted that chloride, sulfate, and total dissolved solids do not have standards pursuant to 35 IAC 620.440. The Illinois EPA compared concentrations from the referenced wells to the background concentrations even though those were exempt since the downgradient wells are screened in and monitor areas previously coal mined.

Additionally, the Illinois EPA included a note at the end of Denial Point No.

1. The note stated:

"The laboratory PQLs for Chlorobenzene, 1,1-Dichloroethane, Benzene, Toluene and Total Xylenes have been increased to 5 ug/l, which is greater than the historical detected concentration range (less than 5 ug/l) and is potentially masking current groundwater quality."

This issue has been addressed by information presented above for appealing the issuance of Supplemental Permit No. 2007-300-SP.

2. *Denial Point No. 2 states "Condition 23 of Attachment A of Supplemental Permit No. 2007-300-SP has not been satisfied. The required groundwater assessment activities at G111, G113, G114, G115, and G117 have not been completed. All groundwater assessment activities, results, conclusions, and follow up activities (to demonstrate the facility is not the source of the listed impacts) must be completed to the satisfaction of the Illinois EPA prior to issuance of certification of completion of post closure care for Thomas 12th St. Disposal."*

The content of Supplemental Permit No 2007-300-SP is part of this appeal.

3. *Draft Denial Point No. 3 states "Condition 25 of Attachment A of Supplemental Permit No. 2007-300-SP has not been satisfied. Background for List 1, 2, and 3 inorganic parameters shall be developed utilizing the earliest four consecutive quarters of groundwater quality. All calculations, raw data presented in tabular form, proposed background values and all historical groundwater data shall be re-evaluated to the proposed background values. This data is required to demonstrate whether or not any of the listed impacts are due to offsite conditions. Requirements of Condition 25 of Attachment A of Supplemental Permit No. 2007-300-SP must be conducted and approved by the Illinois EPA prior to issuance of certification of completion of post closure care for Thomas 12th St. Disposal."*

Condition 25 requires interwell and intrawell background values for all inorganic parameters be developed using the earliest first four quarters of data for Lists 1, 2, and 3 inorganic parameters. Interwell and intrawell values were calculated during the first year of monitoring for all dissolved inorganic parameters in accordance with the methodology provided in Attachment B to the permit. Background concentrations for total constituents were never required. Dissolved concentrations are compared to the background values obtained from four consecutive quarters of data. The total parameters have been compared to the 35 Illinois Administrative

Code (Ill. Adm. Code) 620 Class IV standards (downgradient wells) and Class I standards (upgradient well G111), and the organic compounds are compared to the practical quantitation limits.

The interwell and intrawell values are established and utilized quarterly in the determination of exceedences for all dissolved inorganic constituents. This issue was previously discussed as part of Application Log No. 2005-265. The interwell and intrawell values were submitted to the Illinois EPA in tabular format in Addendum No.3 to Log No. 2005-265. However, this application was not approved. Interwell and intrawell values have not been calculated for total inorganic parameters, as these parameters are required annually and four consecutive quarters are not available for about half of the total parameters. Total inorganic parameters are currently compared to the Class standard in order to determine an exceedence.

The facility was certified closed in 1994 and has been well maintained during the post-closure period. The presence of constituents below approved standards will not cause water pollution. Given that the facility was closed properly, has been very well maintained, and there are no increasing constituent concentrations trends attributable to the waste unit, no future violation of the standards are expected.

There is no transmissive aquifer at the facility. The monitored zone is the mine spoil/bedrock interface. The mine spoil consists largely of clayey overburden, which has a low hydraulic conductivity, meaning water moves very slowly. There are no downgradient receptors (residential or public water supply wells). The adjacent property is bound to the east (downgradient) by the Vermilion River. The facility should not cause water pollution pursuant to 35 Illinois Adm. Code Section 807.313 and 620.440.

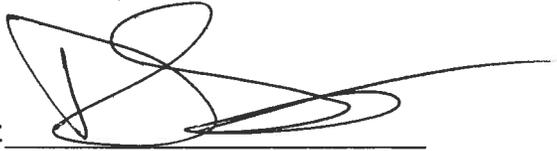
Illinois EPA Log No. 2009-595/PCB Case #2010-085

Application Log No. 2009-595 was submitted pursuant to Condition No. 5 of Supplemental Permit No. 2006-492-SP. This application was a biennial update required by January 1, 2010. Since the Affidavit for Certification of Completion of Post-Closure Care had been submitted September 24, 2009, the biennial update requested the release of all remaining funds.

The Illinois EPA issued a draft denial stating "The facility is still in post-closure care. Therefore, release of financial assurance funds would violate 21.1(a) of the Act and 35 Ill. Adm. Code Sections 807.600 and 807.601." The appeal of the denial of Illinois EPA Log No. 2009-595 is directly associated with the results of the appeal to the issuance of Supplemental Permit No. 2007-300-SP and the denial of application Log No. 2007-497.

27. Petitioner requests that the Board reverse the decision of the Illinois Environmental Protection Agency.

CATHERINE THOMAS,
d/b/a THOMAS 12th STREET
DISPOSAL,

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