

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,)	
)	
Petitioner,)	PCB 2015-166
)	(Permit Appeal)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: All Parties of Record

PLEASE TAKE NOTICE that on March 11, 2015, I filed the following documents electronically with the Clerk of the Pollution Control Board of the State of Illinois:

1. Joint Motion to Consolidate PCB 2015-166 into PCB 2015-060, PCB 2015-076, PCB 2015-111, and PCB 2015-113 (cons.) and to Designate the Record regarding PCB 2015-166; and
2. This Notice of Electronic Filing

Copies of the above-listed documents were served upon you in the manner stated in the Certificate of Service attached hereto.

Respectfully submitted,

CLINTON LANDFILL, INC.,
Petitioner

By: 
One of its attorneys

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915-0235

CERTIFICATE OF SERVICE

The undersigned certifies that on March 11, 2015, the foregoing document will be served upon each party to this case in the following manner:

X VIA EMAIL ~~with confirmation by United States Mail~~ ONLY

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By: 
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**JOINT MOTION TO CONSOLIDATE PCB 2015-166 INTO
PCB 2015-060, PCB 2015-076, PCB 2015-111, and PCB 2015-113,
AND TO DESIGNATE RECORD REGARDING PCB 2015-166**

NOW COME the Petitioner, CLINTON LANDFILL, INC. (“CLI”), and the Respondent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (the “Agency”), by and through their undersigned attorneys, and as and for their Joint Motion to Consolidate PCB 2015-166 into PCB 2015-060, PCB 2015-076, PCB 2015-111, and PCB 2015-113 (cons.), and their Joint Motion to Designate the Record regarding PCB 2015-166, state as follows:

Background

1. On August 28, 2014, CLI filed a Petition for Review of Modification No. **47** to Permit No. 2005-070-LF, which was issued by the Agency on July 31, 2014, with the Pollution Control Board (the “Board”). The case was docketed as PCB 2015-060.

2. During the pendency of PCB 2015-060, on September 18, 2014, the Agency issued Modification No. **48** to Permit No. 2005-070-LF, at CLI’s request (“Modification No. 48”). Modification No. 48 includes the entire text of Permit No. 2005-070-LF, as amended since its initial issuance, including the changes made in Modification No. 47 that were (and are) on appeal in PCB 2015-060.

3. On October 7, 2014, CLI filed a Petition for Review of Modification No. 48, requesting that the Board review Modification No. 48, but *only* as to the changes that were made in Modification No. 47 (which were incorporated into Modification No. 48). The Board docketed that Petition as PCB 2015-076.

4. On November 20, 2014, the Board consolidated PCB 2015-060 and PCB 2015-076 on CLI's motion, without objection by the Agency, based on the following findings:

The parties are the same in PCB 15-60 and PCB 15-76. The cases are both permit appeals challenging permit determinations made by the Agency and are regarding CLI's permit for its Clinton, DeWitt County site. Further, both cases concern the same provisions of CLI's permit, first modified in Permit Modification No. 47 to Permit No. 2005-070-LF, but reiterated in Permit Modification No. 48 to the same permit. The Board also notes that the cases share a decision deadline of March 19, 2015 and no apparent prejudice to either party would result from consolidation. Finally, during a telephone status conference on October 21, 2014, respondent indicated that it does not oppose the motion to consolidate the cases and has no plans to file a response. Hearing Officer Order (Oct. 21, 2014).

(Board Order entered November 20, 2014 in PCB 2015-060 and PCB 2015-076).

5. On November 26, 2014, the Agency issued Modification No. 49 to Permit No. 2005-070-LF, again at CLI's request ("Modification No. 49"). Modification No. 49 again includes the entire text of Permit No. 2005-070-LF, as amended since its initial issuance, including the changes made in Modification No. 47 that were (and are) on appeal in PCB 2015-060 and PCB 2015-076.

6. On December 18, 2014, CLI filed a Petition for Review of Modification No. 49, requesting that the Board review Modification No. 49, but again, *only* as to the changes that were made in Modification No. 47 (which were incorporated into Modification No. 49). The Board docketed that Petition as PCB 2015-111.

7. On December 16, 2014, the Agency issued Modification No. 50 to Permit No. 2005-070-LF, at CLI's request ("Modification No. 50"). Modification No. 50 yet again includes the entire text of Permit No. 2005-070-LF, as amended since its initial issuance, including the changes made in Modification No. 47 that were (and are) on appeal in PCB 2015-060, PCB 2015-076, and PCB 2015-111.

8. On December 19, 2014, CLI filed a Petition for Review of Modification No. 50, requesting that the Board review Modification No. 50, *only* as to the changes that were made in Modification No. 47 (which were incorporated into Modification No. 50). The Board docketed the Petition as PCB 2015-113.

9. On January 6, 2015, CLI and the Agency filed their "Joint Motion to Consolidate PCB 2015-060, PCB 2015-076, PCB 2015-111, and PCB 2015-113, and their Joint Motion to Designate the Record regarding PCB 2015-111 and PCB 2015-113" in PCB 2015-111 and 2015-113. On January 22, 2015, the Board granted the Joint Motion, and consolidated PCB 2015-060, PCB 2015-076, PCB 2015-111, and PCB 2015-113 (collectively, the "Consolidated Case").

10. On February 27, 2015, the Agency issued Modification No. 51 to Permit No. 2005-070-LF, at CLI's request ("Modification No. 51"). Modification No. 51 yet again includes the entire text of Permit No. 2005-070-LF, as amended since its initial issuance, including the changes made in Modification No. 47 that were (and are) on appeal in the Consolidated Case.

11. On March 6, 2015, CLI filed a Petition for Review of Modification No. 51, requesting that the Board review Modification No. 51, *only* as to the changes that were made in Modification No. 47 (which were incorporated into Modification No. 51). The Board docketed the Petition as PCB 2015-166.

Motion to Consolidate

12. Section 101.406 of the Board's regulations provides as follows regarding consolidation of claims:

The Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for the purpose of hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary.

35 Ill. Admin. Code §101.406.

13. CLI and the Agency submit that it is in the interest of convenient, expeditious, and complete determination of claims for the instant case and the Consolidated Case to be further consolidated, as precisely the same issues are being reviewed in these cases. The requested consolidation would not cause material prejudice to any party.

Motion to Designate the Record

14. Assuming that the Motion to Consolidate above is granted, CLI and the Agency have agreed that the Administrative Record filed in PCB 2015-060, as supplemented to date and in the future, should stand as the Administrative Record relative to the instant case, with one addition: the Administrative Record should be supplemented by the Agency to include Modification No. 51 itself (the cover letter and the actual document).

15. CLI and the Agency reserve the right to seek additional supplements to the Administrative Record as these cases proceed.

WHEREFORE, CLI and the Agency jointly request that the Board or the Hearing Officer enter an Order (1) providing that the instant case should be consolidated with the Consolidated Case, and (2) providing that the Administrative Record filed in PCB 2015-060, as supplemented

to date and in the future, will stand as the Administrative Record relative to the instant case, except that the Agency will supplement the Administrative Record with Modification No. 51 itself (the cover letter and the actual document).

Respectfully submitted,

CLINTON LANDFILL, INC.,
Petitioner

By: _____


One of its attorneys

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ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY,
Respondent

By: _____


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915-0206

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