

9/1/2020

To whom it may concern:

PLEASE TAKE NOTICE that this communication serves as a follow up to the Public Hearing which occurred on 8/19/2020 regarding the following:

PEOPLE OF THE STATE OF
ILLINOIS, by KWAME RAOUL,
Attorney General of the State of Illinois,
Complainant,

v.

LANDFILL 33 LTD., an Illinois
Corporation, and WENDT FAMILY
TRUST, an Illinois trust,
Respondents.

PCB 20-32

Upon review of the STIPULATION AND PROPOSAL FOR SETTLEMENT, in the electronically filed document on 2/24/2020, which was followed by a Public Hearing which occurred on 8/19/2020, we hereby believe there to be untrue representations and/or do not agree with the following sections. The details of what we believe to be inaccurate or disagree with begin with PUBLIC COMMENT and are underlined below. These written public comments are expected to be taken into consideration along with the verbal comments provided at the public hearing on 8/19/2020.

I. STATEMENT OF FACTS

C. Non-Admission of Violations

PUBLIC COMMENT: We find it unacceptable that the PCB and Illinois are willing to settle with the Landfill where the settlement includes a non-admission of violations by the Landfill. We the people of Effingham County demand that there be an admission of guilt in this settlement. The Landfill must admit to guilt in this matter in order to take true responsibility for the following acts of negligence and mismanagement around operations of the Landfill:

Landfill's excuse of someone sabotaging the Landfill's equipment is hard to believe. There has been no evidence presented throughout this case which supports this claim. All equipment involved with the operation is supposed to be protected from sabotage. This is an example of negligence & mismanagement as evident of past violations of the Landfill and a result of unaccountability of past violations.

D. Compliance Activities to Date

PUBLIC COMMENT: Reference comments made at hearing.

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

The following response statements by the Parties to the Stipulation:

3. Operation of the Facility as currently permitted was and is suitable for the area in which it is located.

PUBLIC COMMENT: Facility is not in a suitable area. There is a major stream running along the West edge of the Landfill (Salt Creek), and another stream running along the eastern edge of Landfill (unnamed tributary), which feeds into Salt Creek. The entire facility is surrounded by running waters of the state of Illinois. Furthermore, the landfill is at a higher elevation than the streams referenced here. The communities downstream from the Facility get their drinking water from surface water, which is at risk of contamination by runoff from the poorly placed Landfill operation. Due to the Landfill's location and current elevation it is impossible for the Landfill not to have any adverse effects on the adjacent property owners or the natural waters of Illinois that surround the operation.

4. The installation of measures to prevent further equipment failures from occurring that result in leachate releases from the Facility was both technically practicable and economically reasonable.

PUBLIC COMMENT: Why would the Landfill spend \$255,135.50 to upgrade their leachate control system as an added preventative measure, when they claim the whole problem was caused by a trespasser shutting off a switch?

5. Respondents have subsequently complied with the Act and the Board Regulations.

PUBLIC COMMENT: We don't believe this to be true based on the photos explained and referenced at the public hearing, which we are presenting alongside these comments.

IV. CONSIDERATION OF SECTION 42(H) FACTORS

The following response statements by the Parties to the Stipulation:

1. The release of leachate into the Unnamed Tributary to Salt Creek resulted in the death of at least 184 predominantly small to very small fish, having an assessed value of less than Twenty Dollars (\$20).

PUBLIC COMMENT: If not for limited visibility caused by the fluid, additional fish would have been recovered, per the Illinois Conversation Police Field Report, filed on 6/2/2017. IDNR FR #: 2017-5-443-017.

2. Respondents were diligent in attempting to come back into compliance, respondents removing released leachate that had collected in the unnamed tributary to Salt Creek within 24 hours of being notified of the leachate release.

PUBLIC COMMENT: In the Landfill's Compliance Commitment Agreement (CCA) dated Sep 6, 2017, where the Landfill is stating that there was removal of all visible residue, dirty water, and impacted soil in the ditches and the unnamed tributary is false from our point of view. There is no documentation or pictures to support the clean up of the unnamed tributary stream which are being referenced in this document.

4. Complainant has determined that a penalty of \$18,000.00 will serve to deter further violations and aid in future voluntary compliance with the Act and board regulations.

PUBLIC COMMENT: please reference transcript from public hearing.

5. Respondents have no previously adjudicated violations of the Act.

PUBLIC COMMENT: Please reference prior violations.

V. TERMS OF SETTLEMENT

E. **RELEASE FROM LIABILITY**

To include:

a. criminal liability

PUBLIC COMMENT: We believe there have been false statements to law enforcement and state agencies in regard to Landfill's claim of sabotage of the Landfill's equipment, and the claims that cleanup occurred on the unnamed tributary in response to the leachate spill.

b. liability for future violation of state, federal, local, and common laws and/or regulations

c. liability for natural resources damage arising out of the alleged violations

d. liability or claims based on the Respondent's failure to satisfy the requirements of the Stipulation.

This document is being emailed to the Clerk of the Illinois Pollution Control Board on 9/2/2020. Email address being sent to: don.brown@il.gov.

We will also be mailing a copy of this letter to:

Clerk of the Illinois Pollution Control Board,
100 West Randolph Street,
Suite 11-500,
Chicago, Illinois, 60601

Point of Contact:

Dan Borries

15497 E 1300th Ave

Teutopolis, IL

62467

Email: danborries@gmail.com

Phone: 217-857-3692

August 17, 2020

To Whom It May Concern:

We are writing a statement regarding observations that initially took place between May 31, 2017 and June 5, 2017 pertaining to PCB 2020-032.

Tony Kreke, Dan Kreke, and Dan Borries, local landowners at the time the above fish kill incident originally occurred on May 29, 2017, made the following observations directly south of the landfill.

These observations were made within the unnamed tributary stream (runs north to south along the east side of the site) south of the Landfill. These observations were made on private property belonging to Borries and the Kreke's.

Borries and Kreke's clearly observed blackish, discolored water pooled up in all low spots of the unnamed tributary. The tributary had no running water. There was no liquid running down the stream. There were no signs of any attempts at clean up.

After several weeks it was noted that it rained enough that fresh water ran down the tributary and washed the blackish, discolored fluid downstream.

At no time were the local landowners notified or warned by the landfill about this incident nor were the local landowners involved ever offered any compensation for any damages.

Name: Tony Kreke Signature: Anthony (Tony) J. Kreke

Name: Dan Kreke Signature: Daniel Kreke

Name: Dan Borries Signature: Dan Borries

Photo 1) Approximate Lat/Long Location: 39.09719, -88.52407 Unnamed tributary stream, several days after fish kill. This was taken south of the landfill on private property. Blackened Leachate collected visibly in streambed:



Photo 2) Approximate Lat/Long Location: 39.09719, -88.52407 Unnamed tributary stream, several days after fish kill. The was taken south of the landfill on private property, approximately 100 to 150 ft from Salt Creek:



Photos 3A, 3B, 3C, 3D: Approximate Lat/Long Location: 39.09758, -88.52397 These were taken 2 weeks after fishkill, 100 to 150 ft on private property. This is an attempt to mask the impact of the residue left on the streambed:

3a:



3b:



3c:



3d:

