

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BFI WASTE SYSTEMS)	
OF NORTH AMERICA, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB No. 24-29
)	
ILLINOIS ENVIRONMENTAL)	(Permit Appeal -RCRA)
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Senior Assistant Attorney General Christopher J. Grant
 Christopher.Grant@ilag.gov
 Assistant Attorney General Taylor Desgrosseilliers
 t.desgrosseilliers@ilag.gov
 Assistant Attorney General Justin Bertsche
 justin.bertsche@ilag.gov
 Environmental Bureau, Office of the Illinois Attorney General
 69 W. Washington Street, 18th Floor, Chicago, IL 60602
 maria.caccio@ilag.gov

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Petitioner’s Interrogatories to Illinois EPA and Petitioner’s Request for Production to Illinois EPA, copies of which are herewith served upon you.

DATED: June 17, 2024

Respectfully submitted,

Scott B. Sievers
 Ill. Atty. Reg. No. 6275924
 Brown, Hay + Stephens, LLP
 P.O. Box 2459
 205 S. Fifth Street
 Springfield, Illinois 62705
 (217) 544-8491 (telephone)
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 ssievers@bhsllaw.com

BFI WASTE SYSTEMS
 OF NORTH AMERICA, LLC,

 Petitioner.

BY: /s/Scott B. Sievers
 Scott B. Sievers
 Attorney for Petitioner

BFI Waste Systems of North America, LLC v. Illinois EPA
Pollution Control Board No. 24-29

CERTIFICATE OF SERVICE

Scott B. Sievers of the law firm of Brown, Hay + Stephens, LLP herein certifies that on June 17, 2024, from Springfield, Illinois, he electronically submitted for filing the foregoing **NOTICE OF FILING** with the Pollution Control Board by using the Clerk's Office On-Line (COOL) eFile system. Scott B. Sievers further certifies that, on June 17, 2024, he served the other parties in this case with a copy of the foregoing document by transmitting the one (1) page document by e-mail to the parties' representatives, who are identified below, at their designated e-mail addresses of record:

Senior Assistant Attorney General Christopher J. Grant
Christopher.Grant@ilag.gov
Assistant Attorney General Taylor Desgrosseilliers
t.desgrosseilliers@ilag.gov
Assistant Attorney General Justin Bertsche
justin.bertsche@ilag.gov
Environmental Bureau
Office of the Illinois Attorney General
69 W. Washington Street, 18th Floor
Chicago, IL 60602
maria.caccio@ilag.gov

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters herein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Scott B. Sievers
Ill. Atty. Reg. No. 6275924
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BFI WASTE SYSTEMS
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Petitioner.

BY: /s/Scott B. Sievers
Scott B. Sievers
Attorney for Petitioner

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PETITIONER’S INTERROGATORIES TO ILLINOIS EPA

NOW COMES Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, by and through its attorney, Scott B. Sievers of Brown, Hay + Stephens, LLP, and, pursuant to 35 Ill. Adm. Code 101.620, hereby propounds upon Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), the following interrogatories, to be answered fully in writing and under oath within 28 days after service hereof:

1. State the full name and title of each current or former Illinois EPA employee who participated in Illinois EPA’s Final Decision.
2. For each individual identified in your answer to Interrogatory No. 1 above, describe in detail the manner by which the individual participated in Illinois EPA’s Final Decision.
3. State the full name and title of each person consulted by any person identified in your answer to Interrogatory No. 1 above in the course of participating in Illinois EPA’s Final Decision.

4. Illinois EPA's Final Decision states, in pertinent part, "The Illinois EPA has reevaluated the requirements for post-closure care cost estimates and financial assurance under 35 Ill. Adm. Code Part 724 and has determined the post-closure care estimate must reflect thirty (30) years of post-closure care as required by 35 Ill. Adm. Code 724.217." (See Final Decision at 2 ¶ 1). State the full name and title of each current or former Illinois EPA employee who participated in this reevaluation of the requirements for post-closure care estimates and financial assurance referenced in Illinois EPA's Final Decision.

5. Illinois EPA's Final Decision states, in pertinent part, "The Illinois EPA has reevaluated the requirements for post-closure care cost estimates and financial assurance under 35 Ill. Adm. Code Part 724 and has determined the post-closure care estimate must reflect thirty (30) years of post-closure care as required by 35 Ill. Adm. Code 724.217." (See Final Decision at 2 ¶ 1). Describe in detail why Illinois EPA reevaluated the requirements for post-closure care cost estimates and financial assurance under 35 Ill. Adm. Code Part 724 as referenced in its Final Decision.

6. State the full name and title of each current or former Illinois EPA employee with personal knowledge of the "previous requirements" referenced in the statement, "Illinois EPA's previous requirements for the number of years for the post-closure care cost estimate was 30 years OR prorated with a number of years completed with a minimum of 10-year" set forth at R. 000223 of the Record on Appeal.

7. State the full name and title of each current or former Illinois EPA employee who participated in the "Internal discussions" referenced in the statement, "Internal discussion with lead workers and co-workers in the RCRA unit determined that the 'pro-rating' of post-closure care which has been historically included in the RCRA permits is

not the correct manner in which to require cost estimates of post closure care” set forth in Paragraph Two (2) of IEPA Reviewer’s Comments set forth at R. 000214 of the Record on Appeal.

8. Please provide the identities and addresses of your witnesses who will testify at trial and provide the following information:

- (a) Illinois Supreme Court Rule 213(f)(1) *Lay Witnesses*. Identify the subjects on which the witness will testify.
- (b) Illinois Supreme Court Rule 213(f)(2) *Independent Expert Witnesses*. Identify the subjects on which the witness will testify and the opinions the party expects to elicit.
- (c) Illinois Supreme Court Rule 213(f)(3) *Controlled Expert Witnesses*. Identify:
 - (i) the subject matter on which the witness will testify;
 - (ii) the conclusions and opinions of the witness and the bases therefor;
 - (iii) the qualifications of the witness; and
 - (iv) any reports prepared by the witness about the case.

9. For each individual identified in any of your answers to Interrogatories Nos. 1, 3, 4, 6, 7, and 8 above who is a former Illinois EPA employee, state that individual’s last known residential address including street, city, and state.

DEFINITION

“Final Decision” means the September 25, 2023, decision of the Illinois Environmental Protection Agency attached as Exhibit A to the Petition for Review of Illinois EPA Permit Modification Decision filed on January 30, 2024, in the action styled *BFI Waste Systems of North America, LLC v. Illinois Environmental Protection Agency*, PCB No. 2024-029.

Respectfully submitted,

Scott B. Sievers
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BFI WASTE SYSTEMS
OF NORTH AMERICA, LLC,

Petitioner.

BY:



Scott B. Sievers
Attorney for Petitioner

ATTESTATION

STATE OF _____)
) SS.
COUNTY OF _____)

BFI Waste Systems v. Illinois EPA
Illinois PCB No. 2024-065

I, _____, being first duly sworn on oath, depose and state that I am a duly authorized officer, employee, and/or agent of the Illinois Environmental Protection Agency, the Respondent in the above-captioned matter, that I have read the foregoing document, and the answers to Petitioner's Interrogatories to Illinois EPA made herein are true, correct, and complete to the best of my knowledge and belief.

SIGNATURE

SUBSCRIBED and SWORN to before me

this ____ day of _____, 2024.

NOTARY PUBLIC

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ILLINOIS ENVIRONMENTAL)	(Permit Appeal -RCRA)
PROTECTION AGENCY,)	
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Respondent.)	

PETITIONER’S REQUEST FOR PRODUCTION TO ILLINOIS EPA

NOW COMES Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, by and through its attorney, Scott B. Sievers of Brown, Hay + Stephens, LLP, and, pursuant to 35 Ill. Adm. Code 101.616, hereby directs Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), to produce for inspection and copying at the law office of Brown, Hay + Stephens, LLP, 205 S. Fifth Street, Suite 1000, P.O. Box 2459, Springfield, Illinois 62705, the following documents, objects, or tangible things by Monday, July 15, 2024, and organized and labeled to correspond with the categories of the request, or, if an item is not in Respondent’s possession or control, to disclose information calculated to lead to the discovery of the whereabouts of the item:

1. A copy of each record documenting the “previous requirements” referenced in the statement, “Illinois EPA’s previous requirements for the number of years for the post-closure care cost estimate was 30 years OR prorated with a number of years completed with a minimum of 10-year” set forth at R. 000223 of the Record on Appeal.
2. A copy of Illinois EPA’s proposed decision concerning the City of North Chicago site referenced at R. 000229 of the Record on Appeal.

3. A copy of Illinois EPA's proposed decision concerning the RCH Newco site referenced at R. 000229 of the Record on Appeal.

4. A copy of all records—including but in no way limited to email and text messages—documenting the “Internal discussions” referenced in the statement, “Internal discussion with lead workers and co-workers in the RCRA unit determined that the ‘pro-rating’ of post-closure care which has been historically included in the RCRA permits is not the correct manner in which to require cost estimates of post closure care” set forth in Paragraph Two (2) of IEPA Reviewer's Comments set forth at R. 000214 of the Record on Appeal.

5. A copy of all records—including but in no way limited to notes, memoranda, and email and text messages—documenting the advice provided by the Illinois EPA Division of Legal Counsel and referenced at R. 000225 of the Record on Appeal.

6. A copy of all records—including but in no way limited to notes and email and text messages—documenting the telephone call with Doug Coenen, P.E. of Wisconsin Department of Natural Resources referenced at R. 000229 to R. 000230 of the Record on Appeal.

7. A copy of all records documenting the email correspondence with Doug Coenen, P.E. of Wisconsin Department of Natural Resources referenced at R. 000230 of the Record on Appeal.

8. A copy of all records—including but in no way limited to notes and email and text messages—documenting communications with Merline Russell, P.G. of Florida Department of Environmental Protection referenced at R. 000230 of the Record on Appeal.

9. A copy of each document you intend to use as an exhibit, demonstrative or otherwise, at trial.

10. An affidavit attesting whether your production is complete in accordance with Petitioner's Request for Production to Illinois EPA.

11. If the production is not complete in accordance with Petitioner's Request for Production to Illinois EPA, a listing of those documents, objects, or tangible things not produced stating the grounds for objection to their production and giving the name and address of the individual or entity having possession, custody, or control of said items.

12. For each document being withheld based upon a claim of privilege, a log containing the following information with respect to each such document:

- (a) the date upon which the document was prepared or finalized;
- (b) the name and last known address of the author of the document;
- (c) the name and last known address of the recipient of the document;
- (d) a description of the nature of the document, including its subject matter; and
- (e) the basis of the claim of privilege.

DEFINITIONS

"Copy" means a true and accurate duplicate of the original document.

Pursuant to Illinois Supreme Court Rule 201, "document" means papers, photographs, films, recordings, memoranda, books, records, accounts, communications and electronically stored information, and electronically stored information includes any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data

or data compilations in any medium from which electronically stored information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

“Record” means “document” as defined above.

INSTRUCTIONS

Bates-stamp documents responsive to this request, and in your written response include the range of Bates numbers responsive to each numbered request.

Electronically stored information should be produced in text-searchable Adobe Portable Document Format (PDF) and should include all metadata.

Pursuant to Illinois Supreme Court Rule 214(d), you have a duty to seasonably supplement your responses to the above production requests throughout the pendency of this case.

Respectfully submitted,

BFI WASTE SYSTEMS
OF NORTH AMERICA, LLC,

Petitioner.

Scott B. Sievers
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BY:



Scott B. Sievers
Attorney for Petitioner

AFFIDAVIT

STATE OF _____)
) SS.
COUNTY OF _____)

BFI Waste Systems v. Illinois EPA
Illinois PCB No. 2024-065

I, _____, being first duly sworn on oath, depose and state that I am a duly authorized officer, employee, and/or agent of the Illinois Environmental Protection Agency, the Respondent in the above-captioned matter, and the production by Respondent Illinois Environmental Protection Agency of the enclosed documents, objects, or tangible things is complete in accordance with Petitioner's Request for Production to Illinois EPA.

SIGNATURE

SUBSCRIBED and SWORN to before me

this ____ day of _____, 2024.

NOTARY PUBLIC