

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4 IN THE MATTER OF:

5 NONHAZARDOUS SPECIAL WASTE

6 HAULING AND THE UNIFORM PROGRAM R98-29

7 35 ILL. ADM. CODE 809 (Rulemaking-Land)

8 (PURSUANT TO P.A. 90-218)

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13 Proceedings held on July 21, 1998 at 10:00 a.m.,

14 at the Illinois Pollution Control Board, 600 South

15 Second Street, Springfield, Illinois, before the

16 Honorable John Knittle, Hearing Officer.

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3 Board Member Joseph Yi

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On behalf of the Illinois EPA.

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1 INDEX

2 WITNESS PAGE NUMBER

3 David Walters 8

4 Edwin C. Bakowski 10

5

6 EXHIBITS

7 NUMBER MARKED FOR I.D. ENTERED

8 Hearing Exhibit 1 7 7

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1 PROCEEDINGS

2 (July 21, 1998; 10:00 a.m.)

3 HEARING OFFICER KNITTLE: Good morning. My name
4 is John Knittle. I have been appointed by the Board
5 to serve as hearing officer in this proceeding which
6 is entitled, In the Matter of: Nonhazardous Special
7 Waste Hauling and the Uniform Program, 35 Illinois
8 Administrative Code 809.

9 Seated next to me is Board Member Joseph Yi. He
10 is the assigned Board Member to this case. There is
11 no one else present from the Pollution Control Board
12 here today.

13 This is the first hearing of the proceeding which
14 was filed on May 8th, 1998, by the Illinois
15 Environmental Protection Agency. On May 21st, 1998,
16 the Board accepted Parts 729.808, 809 and 811 of the
17 proposal for hearing. As you know, at the front of
18 the room there are sign up sheets for notice and
19 service lists, but everybody here is already part of
20 that, so I am not going to explain what the notice and
21 service lists mean. If anybody has any questions they
22 can see me after the hearing. I also note for the
23 record that there are no members of the public here at
24 this point.

25 At this point I would like to ask Mr. Joseph Yi if

1 he has anything to add.

2 BOARD MEMBER YI: Good morning. On behalf of the
3 Board I would like to welcome everyone here this
4 morning. The Board is cognizant of the importance of
5 this rulemaking to both proponents. I am looking
6 forward to a very efficient and fair rulemaking
7 process. Thank you.

8 HEARING OFFICER KNITTLE: Thanks, Board Member Yi.
9 I should also note that we received some prefiled
10 testimony from the Agency. The Agency, your
11 testifiers have the option of summarizing their
12 testimony or having it entered into the record as if
13 read or reading the testimony, if you so choose.

14 We are going to allow questions for the specific
15 testimony and the testifier unless you want to put
16 forth a panel to testify at the same time. After we
17 have finished the prefiled testimony, we will proceed
18 with anybody else who might wish to present testimony
19 today, but the odds of that look kind of slim right
20 now.

21 At this time I would like to give the Agency a
22 chance to make an opening statement if you so desire.

23 MS. ROBINSON: Good morning. My name is Kimberly
24 Robinson. I work for the Bureau of Land, Division of
25 Legal Counsel. With me today I have the Acting

1 Manager of the Solid Waste Section, David Walters; the
2 Manager of the Permit Section, Ed Bakowski; and you
3 are with the permit section, Scott Hacke, Bureau of
4 Land.

5 MR. HACKE: Remedial Project Management Section.

6 MS. ROBINSON: The Remedial Project Management
7 Section. Excuse me.

8 We would request this morning that the testimony
9 be entered into the record as if read and also that
10 the witnesses be allowed to answer in panel format.

11 Of course, we can ask specific questions of the
12 witnesses, no problem. But if they could answer in
13 panel format that would be great for us.

14 I think Mr. Walters would like to do a short
15 summary of testimony just to give some background into
16 the program and how we got to this point.

17 HEARING OFFICER KNITTLE: That is definitely
18 acceptable. If you could hold on just for a second,
19 Mr. Walters.

20 Do you want to enter the testimony now?

21 MS. ROBINSON: Yes, please.

22 HEARING OFFICER KNITTLE: Do you have a copy of
23 the testimony that we could enter into the record?

24 MS. ROBINSON: I do.

25 HEARING OFFICER KNITTLE: We will enter this into

1 the record as Exhibit 1, or do you want to separate
2 the two?

3 MS. ROBINSON: Actually, it can all be entered the
4 same if you have no problem with that.

5 (Whereupon said document was duly marked for
6 purposes of identification and entered into
7 evidence as Hearing Exhibit 1 as of this date.)

8 MS. ROBINSON: We do have one typographical error
9 that we noticed, if we could correct that on the
10 record.

11 HEARING OFFICER KNITTLE: Sure. Where is that?

12 MS. ROBINSON: It is on page three of Mr.
13 Bakowski's testimony. It is five lines up from the
14 bottom, toward the end of that sentence. "Different
15 generators would not be forced to complete," should
16 be, "would now be forced."

17 HEARING OFFICER KNITTLE: I will note that
18 change. We will accept the prefiled testimony of
19 Edwin C. Bakowski and David Walters from the
20 Environmental Protection Agency as Exhibit Number 1,
21 with the change so noted on the record.

22 MS. ROBINSON: Thank you.

23 HEARING OFFICER KNITTLE: Before you testify,
24 could we swear all the witness in.

25 MS. ROBINSON: That would be great.

1 (Whereupon David Walters, Edwin C. Bakowski and
2 Scott A. Hacke were sworn by the Notary Public.)

3 HEARING OFFICER KNITTLE: You can proceed with any
4 testimony or statement that you have.

5 MR. DAVID WALTERS: Okay. I will be brief. I
6 have been with the Agency since 1991. I have been
7 with the Solid Waste Management -- or the Acting
8 Manager of the Solid Waste Management Section for the
9 last two and a half years. One activity of the Solid
10 Waste Management Section has been to permit special
11 waste haulers or transporters of special waste that
12 was either generated in Illinois or destined for an
13 Illinois facility.

14 Federal legislation passed in 1991 took away some
15 of the State's rights to permit the haulers of
16 hazardous waste. We have been before the Board, the
17 Agency has been before the Board on a similar matter
18 that similar legislation did regarding placarding of
19 the vehicles, the special waste, and we at that time
20 amended the rules to no longer require the
21 transporters to put those stickers or placards on
22 their trucks.

23 Now this law will require us to separate the
24 special waste hauler permits into those transporters
25 that are just doing nonhazardous special waste and

1 those that are doing hazardous special waste. The
2 nonhazardous special waste transporters will remain
3 the same as they have always been.

4 The hazardous waste transporters will now be
5 permitted under this uniform registration and permit
6 program, which is a base state system, and will be
7 allowed -- the permits they receive will be allowed in
8 any other participating state. Right now it is Ohio,
9 Minnesota, West Virginia, and Nevada, and we joined
10 the program July the 1st. We anticipate Michigan
11 joining the program later this fall.

12 It is a two-part system, really, where they will
13 receive a permit that is valid for three years and,
14 again, that permit will be valid for transportation of
15 hazardous waste in all of those states, and they will
16 also have to register with us -- those that are based
17 in Illinois will have to register with us annually to
18 renew the validity of the permit.

19 The fees that they will pay, which were determined
20 by the legislation requiring us to do this, will be
21 \$250.00 per company and \$20.00 per vehicle based on
22 apportioned miles. The apportioned miles will be a
23 multiplication factor of how many total miles they
24 will do in each state and how many of those miles are
25 hazardous waste. So they will apportion those miles

1 down and pay us accordingly.

2 We have been -- we have issued 12 or 15 of these
3 permits already for those transporters that have
4 previous permits that were expiring July 1st. Things
5 have been fine. Companies have been accepting of the
6 program. They realize the benefits to them of the
7 program. Other transporters that we transported --
8 that we permitted last year we will be bringing into
9 the uniform program as their special waste permits
10 expire during the next year.

11 That concludes my summary. Thank you.

12 HEARING OFFICER KNITTLE: Thank you, Mr. Walters.

13 Is there anybody present who has any testimony from
14 the Agency?

15 MR. EDWIN BAKOWSKI: Yes. I am Ed Bakowski. I am
16 manager of the Permit Section. As part of that we
17 have the responsibility for permitting in the past
18 used oil recyclers. And we have set up a team in the
19 Agency to look at implementing the new 739 rules that
20 the Board adopted several years ago. Basically what
21 we have done is we have identified some fairly minor
22 technical consistency and clarification issues that we
23 have run across.

24 In the process of implementing 739 it has evolved
25 where a lot of these facilities are solely going to

1 just used oil and, therefore, not needing a permit
2 anymore. Because they don't need a permit, there has
3 been a specific conflict in that in Part 809 there is
4 an issue that -- there is a rule that requires them to
5 only deliver special waste to facilities that have a
6 permit. So there is a conflict there. We have
7 proposed some language to fix that.

8 And also along the same sort of lines, there is,
9 we feel, a duplicate effort being created in the fact
10 that a lot of these haulers of used oil have to carry
11 manifests as well as do a lot of reporting under 739,
12 and we think some of this is duplicative, so we are
13 trying to take that out.

14 I think that basically is a summary of the changes
15 we are doing. And we just took the opportunity to --
16 since the other rulemaking was going on, our little
17 work group kind of added into it. That's why we are
18 doing them together jointly.

19 HEARING OFFICER KNITTLE: Understood. Thank you,
20 Mr. Bakowski, for your testimony.

21 Do you have any further testimony?

22 MS. ROBINSON: That would conclude our testimony
23 summaries at this point.

24 HEARING OFFICER KNITTLE: Okay. There is still
25 nobody from the public here at this point, but I would

1 like to recess for about 20 minutes, until 10:30, to
2 give anybody from the public an opportunity to come
3 join us here at our rulemaking hearing.
4 Do you have any objection to that?
5 MS. ROBINSON: No objection at all.
6 HEARING OFFICER KNITTLE: Okay. We will stand in
7 recess for 20 minutes until 10:30 a.m.
8 (Whereupon a short recess was taken.)
9 HEARING OFFICER KNITTLE: We are back on the
10 record.
11 It should be noted that Scott Hacke from the
12 Environmental Protection Agency has left. No members
13 of the public have attended the hearing to this
14 point.
15 Is there any other testimony that you wish to
16 offer at this point?
17 MS. ROBINSON: We have nothing further today.
18 HEARING OFFICER KNITTLE: I think we will close
19 things up then. It should be noted that we talked off
20 the record about the ECIS requirement. There is
21 legislation that has been adopted that is effective
22 and requires the Board to request from DCCA, the
23 Department of Commerce and Community Affairs, to
24 conduct an economic impact study in any rulemaking.
25 This is in effect. We just haven't quite formulated

1 how we are going to be conducting ECIS hearings at
2 this point for the new fiscal year. I will, of
3 course, inform both parties when we decide how we are
4 going to be proceeding with this and how this
5 rulemaking will be affected as soon as possible.

6 The second hearing is going to be held in this
7 matter on July 31st in Chicago at 10:00 a.m. After
8 that hearing I am going to give a cut off date for
9 comments and when we are going to close the record and
10 all of that technical data. At this point I don't
11 have anything else.

12 Do you have any other comments?

13 MS. ROBINSON: No, we have nothing further.

14 HEARING OFFICER KNITTLE: Seeing nobody who wants
15 to testify and no other comments or questions that we
16 have, we are going to close today's hearing. Thank
17 you very much for your time and attention. This
18 hearing is closed.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

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4 C E R T I F I C A T E

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6 I, DARLENE M. NIEMEYER, a Notary Public in and for
7 the County of Montgomery, State of Illinois, DO HEREBY
8 CERTIFY that the foregoing 13 pages comprise a true,
9 complete and correct transcript of the proceedings
10 held on the 21st of July A.D., 1998, at 600 South
11 Second Street, Springfield, Illinois, in the matter
12 of: Nonhazardous Special Waste Hauling and the Uniform
13 Program 35 Ill. Adm. Code 809 (Pursuant to P.A.
14 90-218), in proceedings held before the Honorable John
15 Knittle, Hearing Officer, and recorded in machine
16 shorthand by me.

17 IN WITNESS WHEREOF I have hereunto set my hand and
18 affixed my Notarial Seal this 23rd day of July A.D.,
19 1998.

20

21

Notary Public and
22 Certified Shorthand Reporter and
Registered Professional Reporter

23

CSR License No. 084-003677
24 My Commission Expires: 03-02-99

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