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MAY 03 2001

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
SITE REMEDIATION PROGRAM )  
 )  
AMENDMENTS TO )  
 )  
35 ILL. ADM. CODE 740 )

R01-027  
(Rulemaking - Land)

*P.C.#5*

NOTICE OF FILING

To: Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Bobb A. Beauchamp  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Persons on attached service list

PLEASE TAKE NOTICE that I have today filed with the Clerk of the Illinois Pollution Control Board the original and nine copies of the **COMMENTS OF THE CHICAGO DEPARTMENT OF ENVIRONMENT** in the above-captioned matter, a copy of which is herewith served upon you.

By: *Carol B. Brown*  
Carol B. Brown  
Assistant to the Commissioner  
Chicago Department of Environment  
30 N. LaSalle Street, Suite 2500  
Chicago, IL 60602  
(312) 744-7200

Dated: May 3, 2001

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STATE OF ILLINOIS  
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**COMMENTS OF THE CHICAGO DEPARTMENT OF ENVIRONMENT**

The Chicago Department of Environment ("CDOE") appreciates this opportunity to comment on the proposed amendments to the Site Remediation Program, 35 Ill. Adm. Code 740. CDOE generally supports the proposed amendments. However, CDOE is concerned that the current amendment language relating to the establishment of soil management zones in Section 740.535 might undercut the Site Remediation Program. Specifically, that section could be interpreted to permit a remedial applicant to consolidate contaminated soils from across a parcel onto one area of the parcel and then simply cap that area with asphalt or a similar engineered barrier. In effect, the soil management zone would be transformed into a device to allow the on-site disposal of contaminated soils.

While we support the concept of allowing contaminated soils to be moved within the site if sound environmental standards are met and if the movement of such soils is a necessary part of on-site construction activities, we cannot support consolidation of contaminated soils to avoid the costs of proper off-site disposal. For example, it is appropriate for contaminated soil to be used for on-site construction fill in situations where off-site material would otherwise have to be brought in for a development project, with the resulting building serving as an engineered barrier. Conversely,

consolidating the waste material into a berm or other structure that has no genuine on-site purpose other than as a means of avoiding transportation and disposal costs would not be acceptable.

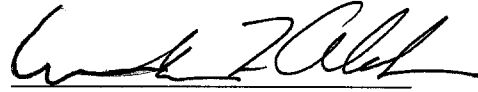
Therefore, in order to avoid any possibility of soil management zones being used for such improper purposes, CDOE requests clarification of Section 740.535(a). This could be accomplished either by deleting proposed Section 740.535(a)(2)(B), and therefore eliminating the reference to “consolidation” entirely, or by inserting new language that would specify that contaminated soil in soil management zones could be left on site only if required for *bona fide* construction or engineering purposes. Possible language for a new Section 740.535(a)(3) would be as follows:

Section 740.535(a)(3). Soil management zones for contaminated on-site soils pursuant to Section 740.535(a)(2) shall be used only where such soils will serve as a substitute for materials that would otherwise have to be brought to the site for construction or engineering purposes.

In summary, CDOE has had to pay for the clean-up of many sites across the city on which former owners consolidated waste materials in order to avoid properly disposing of them, rendering those sites unusable by future developers without costly remediation. Therefore, while CDOE generally supports the proposed amendments to the Site Remediation Program, it believes that additional clarification of Section 740.535 is required to prevent soil management zones from being used as a way to avoid removing and disposing of contaminated soil whose continued presence on-site is not genuinely necessary.

Dated: May 3, 2001

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. F. Abolt", written over a horizontal line.

William F. Abolt  
Commissioner  
Chicago Department of Environment  
30 N. LaSalle Street, Suite 2500  
Chicago, IL 60602

**CERTIFICATE OF SERVICE**

I, Carol B. Brown, certify that on this the 3rd day of May, 2001, I served the attached Notice of Filing and **COMMENTS OF THE CHICAGO DEPARTMENT OF ENVIRONMENT** upon:

Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
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by hand delivery and upon the persons on the attached service list via United States Mail, postage prepaid.



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## SERVICE LIST

In the Matter Of:

Site Remediation Program: Amendments to 35 Ill. Adm. Code 740  
Docket No. R01-027

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