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AUG 16 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF)	
)	
PETITION OF WASTE MANAGEMENT OF)	AS 05-07
ILLINOIS, INC. FOR AN ADJUSTED)	(Adjusted Standard – Land)
STANDARD FROM SUBPART D OF)	
35 ILL. ADM. CODE 721 AND FOR RCRA)	
WASTE DELISTING UNDER 35 ILL. ADM.)	
CODE 720.122 FOR TREATMENT RESIDUAL)	
OF CID RECYCLING AND DISPOSAL)	
FACILITY BIOLOGICAL LIQUID)	
TREATMENT CENTER)	

NOTICE OF FILING

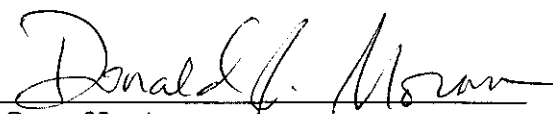
TO: USEPA
Office of Solid Waste and
Emergency Response
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

USEPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

John J. Kim
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that on August 16, 2005, we filed with the Illinois Pollution Control Board, an original and nine copies of the attached **Response to Recommendation to Petition for Adjusted Standard** by Waste Management of Illinois, Inc.

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 
One of Its Attorneys

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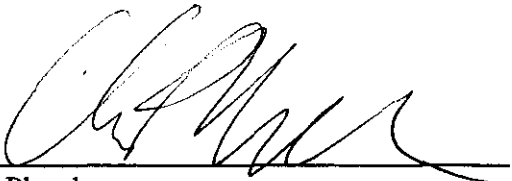
CERTIFICATE OF SERVICE

Char Phoulavan, a non-attorney, on oath states that she served the foregoing **Response to Recommendation to Petition for Adjusted Standard** by placing true and correct copies in properly sealed and addressed envelopes to the following parties as listed below and by depositing same in the U.S. mail located at 161 N. Clark St., Chicago, Illinois 60601, on or before 5:00 p.m. on this 16th day of August, 2005:

USEPA
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1021 North Grand Avenue East
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Springfield, Illinois 62794-9276



Char Phoulavan

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AS 05- 07
(Adjusted Standard – Land)

STATE OF ILLINOIS
Pollution Control Board

**RESPONSE TO RECOMMENDATION TO
PETITION FOR ADJUSTED STANDARD**

Waste Management of Illinois, Inc. ("WMII"), by its attorneys Pedersen & Houpt, P.C., and pursuant to 35 Ill. Adm. Code 104.416(d), submits this response to the Recommendation to Petition for Adjusted Standard filed by the Illinois Environmental Protection Agency ("IEPA"). In support of its response, WMII states as follows:

1. On June 9, 2005, WMII filed a RCRA Delisting Adjusted Standard Petition with the Illinois Pollution Control Board ("Board"), seeking an adjusted standard delisting the lime-conditioned filter cake that results from treatment at the CID Recycling and Disposal Facility's Biological Liquid Treatment Center ("BLTC"). The Petition was prepared after discussions with the IEPA over a two-year period which led to agreement on the method and purpose for the request. The Petition was filed only after verbal approval was received from the IEPA.

2. Notwithstanding these discussions and verbal approval, on July 29, 2005, the IEPA filed its Recommendation to Petition for Adjusted Standard ("Recommendation") in which it requested that the Board deny the Petition. The IEPA claims that the third criterion in 35 Ill.

Adm. Code 720.122 has not been met, namely, that the petitioned waste not exhibit any other factors that could cause the waste to be a hazardous waste. Recommendation at 3.

3. Specifically, the IEPA takes issue with the methodology used by WMII in performing the risk assessment. First, the IEPA disagrees with the exclusion of certain metals, particularly arsenic, in the calculation of the non-carcinogenic Hazard Index ("HI"). According to the IEPA, the level of arsenic detected in the petitioned waste (80 mg/kg) was above background levels, and should have been included in the HI calculation. Moreover, the IEPA contends that it "is not sound practice from a risk-assessment standpoint" to exclude a constituent simply because it falls below "background", because regardless of the concentration, the constituent contributes to "the overall risk of the waste." Recommendation at 5. Second, the IEPA disagrees that the acceptable range for cancer risk is 10^{-4} to 10^{-6} . The IEPA asserts that it and the USEPA "have traditionally considered a cancer risk of 10^{-6} to be the maximum acceptable risk." Recommendation at 5. As the aggregate carcinogenic risk predicted by the model was greater than 10^{-6} , the IEPA concluded that the third criterion has not been met.

4. As the IEPA points out, arsenic is of particular concern as its Hazard Quotient ("HQ") (Table 11) is 2.26. However, Table 11 does not include the results of the Pollute v6 model, and thus, does not take into account the presence of a liner system, as required by the regulations, for Subtitle D landfills. In accordance with the regulations, the delisted waste must be disposed in a Subtitle D landfill. Table 14 of the WMII Delisting Request includes the Delisting Risk Assessment Software ("DRAS") results with the Pollute v6 input data for the non-carcinogenic risk HQ and HI calculations. Based upon these results, the HQ for arsenic is 7.94×10^{-17} . If the metals constituents previously omitted from the HI calculation were included, the

HI value would be 0.435, which is still less than the 1.0 level that the IEPA and the USEPA have traditionally accepted for delisting.

5. WMII has discussed the above information with the IEPA. The IEPA has provided a verbal, general concurrence with this methodology to justify a HI of less than one for delisting of the petitioned waste.

6. With respect to the acceptable range for cancer risk, Attachment 5 of the Region 6 Specific Delisting, which is included in the EPA Delisting Program: Guidance Manual for the Petitioner ("Guidance"), provides that "The cumulative risk analysis is performed for decisions involving one time (single batch) delistings and delisting decisions are made according to a target risk range of 1×10^{-4} to 1×10^{-6} and a hazard index (HI) of 1." (emphasis added). In addition, while the aggregate risk may be somewhat greater than 10^{-6} , only two constituents, Nitrosodiethylamine (1.05×10^{-5}) and Nitrosodimethylamine (7.58×10^{-6}), had a carcinogenic risk greater than 10^{-6} . As such, these two constituents were the drivers in the aggregate risk calculations. As presented on page 49 of the Delisting Request, the risk factor associated with the Nitrosodiethylamine is based upon the analytical reporting limit, as the laboratory data were below the reporting limit. Thus, the only analytically detected constituent above the 10^{-6} carcinogenic risk is the Nitrosodimethylamine.

7. In order to ensure that the aggregate carcinogenic risk for the petitioned waste remains below the 10^{-6} level being mandated by the IEPA, WMII has back calculated the maximum allowable concentrations for the two risk drivers to ensure that a 10^{-6} risk is not being exceeded. The USEPA's Integrated Risk Information System ("IRIS") was also reviewed for these two constituents to determine the carcinogenic risk for a lifetime exposure under the groundwater pathway. The maximum allowable concentrations, based upon the IRIS database

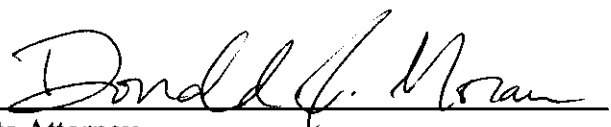
and the back calculations, are not analytically achievable (Environmental Monitoring and Technologies, Inc., 2005 method detection limit evaluation).

8. WMII has provided information to the IEPA regarding the analytical inability to reach the necessary detection limits, to achieve a 10^{-6} carcinogenic risk for the Nitrosodiethylamine and Nitrosodimethylamine. While these two constituents act as the risk drivers in the carcinogenic risk calculations, the Nitrosodiethylamine risk is based upon the analytical reporting limit and was not detected in the petitioned waste. The Nitrosodimethylamine is, therefore, the only significant risk driver and falls within the target risk range of 10^{-4} to 10^{-6} as presented in the Guidance. With the conservative nature of DRAS, the true risk associated with these two parameters is likely less than calculated.

WHEREFORE, WMII requests that the Board consider the above information in reviewing the Recommendation, find that WMII has met the third criterion of 36 Ill. Adm. Code 720.122, and grant the adjusted standard.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 
Its Attorney

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