

MAY 05 2008

To: *All-Pollution Control Board*

Brief from Tom Edwards for PCB case 08-42

STATE OF ILLINOIS
Pollution Control Board**Synopsis:**

1-- The Peoria Disposal Co.'s toxic waste landfill at Peoria is in the most hazardous location in the nation relative to the health and well being of people.

2 -- Inspection, oversight, and control need to be vastly improved, and it needs to be safely closed as soon as possible.

3 -- Best alternative: The state needs to find the safest site possible for such a landfill, buy it, and contract out and oversee its operation.

ORIGINAL

Status:

The Illinois Environmental Protection Agency is proposing changes in its permit governing the Peoria Disposal Co.'s toxic waste landfill here. Yet it contains major omissions, and changes that will weaken the permit. This is crucial to the Peoria area environment because this "landfill" a) directly abuts the west edge of the City of Peoria, a densely populated area; b) sits right over the aquifer from which most of Peoria and adjacent communities draw their water; and c) takes in toxic waste from (so far) up to 15 other states. And this EPA landfill permit is slated to govern operation and closure of the PDC landfill remain for the next 30 years

Overview of situation:

The toxic waste landfill of the Peoria Disposal Co. will be a major hazardous environmental factor here, literally, *forever*. It is the elephant in our living room that we have avoided acknowledging -- a *critical mistake* by both PDC and government. To deal with it is going to take longterm *combined* financing and effort by both. All sides need to work together to achieve a total solution -- and an example for others. We can.

We Need Far Better Oversight:

Of the still remaining active commercial toxic waste landfills in the nation (16 in only 13 states), the one at Peoria, owned by Peoria Disposal Co.(PDC), is in by far the most dangerous location in regard to the health and welfare of people and a municipality.

Industries and communities of up to 15 states (so far) send their hazardous waste to be "buried", literally, on a hill in Peoria that is as close as just 50 feet above the sand aquifer from which most of the Peoria area draws its water supply. It is the only active commercial toxic waste landfill in the top half of the nation from this side of Indianapolis to the Rocky Mountains.

PDC's toxic waste "landfill" at Peoria is the **only still active one in the nation that:**

- 1) Sits right above let alone close to an aquifer from which is pumped the majority of a municipal area's drinking water, and
- 2) Is also located immediately upwind of the air Peorians must breathe.

Only nuclear waste is ranked more of a health hazard than the phalanx of toxic chemicals (843 of them) that are permitted by the federal and state EPAs to be put in PDC's Peoria

landfill, which abuts the west city boundary line. And there is only one site in the nation, in Nevada's desert mountains, being planned for a nuclear waste disposal site.

Water and air pollution are the twin hazards of PDC's toxic waste landfill. It is a pollution hazard, present and potential, to the Peoria area's vital ground water supply. And though research has shown air pollution to be a health hazard in the vicinity of toxic landfills elsewhere (see below), the IEPA has given that possibility virtually no attention at PDC's landfill, saying it isn't a hazard there.

Specific Points and Recommendations:

1 -- **Independent inspections and testing direly needed:** EPA's permit puts virtually the entire responsibility on PDC for monitoring, testing, and reporting on its own landfill and performance rather than vice versa. EPA inspectors say they visit the landfill once, occasionally twice, a month. In effect, the EPA is having the "permittee" inspect himself. In contrast, the City of Peoria has inspectors on the job checking road and sidewalk projects the entire 8-hour work day.

2 -- **Illegal volume change:** Original volume capacity limit for waste in the new (post 1987) part of the landfill was originally set at 1.84 million cubic yards, but was upped by PDC and EPA to 2.63 million cubic yards in 2002. [Permit page V-1]. That is a *huge* 43% increase. **Public hearings are required for major changes.** One was not held, making that expansion illegal.

b. Moreover, when the total capacity of the seven (7) cells of this part of the landfill are added, they total 2.87 million c.y., considerably more than the stated 2.63 million c.y. total permitted limit cited on the same page.

c. Also, PDC has evidently exceeded even the 2.63 total volume limit.
The above all needs outside review and investigation.

3 -- **Reinstate quarterly monitoring for leaks, problems.** Testing of water samples from monitoring wells, now done quarterly, is proposed to instead be collected semi-annually, and a number only annually. Leaks could then go on 6 to 12 months without discovery, greatly hindering leak detection and increasing pollution. **Continued quarterly monitoring, at the least, is a vital safeguard. Even more so after landfill closure, as problems worsen over time.**

4 -- **Much leaking reported from landfill's new section by independent consultants. It must be solved.** Or it will be a constant, growing hazard for the Peoria area, as the landfill sits over its drinking water aquifer. **But none of this leaking was found or reported either by PDC or the IEPA.** A county hired engineering consultant found Cell No.1 to be leaking. But a privately hired geohydrologist Charles Norris of Denver, CO, found that all seven cells of the newer part (built since 1987) of the landfill, all with liners to prevent leaking, **in fact do leak.** Even the newest ones with "double liners" are leaking, probably straight down through the bottom, he reported. (Therefore likely missing the monitoring wells.)

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5 -- Pre-law, unlined section of landfill is ignored and likely leaking. Must be monitored. PDC's landfill has been in operation 79 years, 58 years before the state began in 1987 requiring plastic liners, drains, etc. Because this older but larger section is "pre-law" the EPA does little if any inspection and monitoring of it.

(Love Canal, N.Y., had a pre-regulation landfill. Residents there went to Washington and pounded on Congressional doors to get action to relieve them of the pollution sickening their community. 750 homes were razed. It woke up EPA and the nation. Congress then set up a massive fund to help the host of other places with pre-law dumps. It quickly ran out of money.)

6 -- A dangerous location for people. As stated above, Peoria is the nation's only metro area with a toxic waste landfill sitting over the city's main water source, and immediately upwind of a densely populated area. Research in New Jersey and five European Union countries of communities near toxic waste landfills showed significantly higher rates of birth defects, premature births, and in New York State a 15% higher rate of strokes. Air pollutants from landfills are the main suspect. Peoria Co reports a very high infant mortality rate.

6 -- Peoria County has by far the highest chemical Toxic Release Inventory of any county in Illinois, 4.3 times higher than Cook County's (Chicago), and 16th highest in the nation, according to a 2002 USEPA survey. In the survey PDC's toxic releases were over 21 times higher than the next highest in the county, which was ADM's ethanol plant. (News report to be attached.)

7 --*Air pollution: The denied reality: The IEPA has long been saying there is no air pollution from the PDC landfill. But its closest monitor is 4.5 miles away on a bank building roof. And recent detailed studies (noted above) in New York State, New Jersey, and the European Union show air pollution to be a major health problem for people living in the vicinity of toxic waste landfills. In an unauthorized visit into the PDC landfill last year I found behind a knoll a cluster of pipes 12 to 15 inches in diameter sticking up 7 or more feet out of the ground. A whiff of the fumes they were venting sent me reeling backwards. I reported this to an IEPA inspector of the site. He replied that he and the EPA were unaware of any air pollution or vents for emissions on PDC's site, and asked me where the vents were. I trust he reported this vital knowledge to higher-ups. Other air pollutants from the site are certainly being dispersed by PDC elsewhere. This needs to be thoroughly and publicly investigated by the federal EPA, which has suzerainty over the site.

8 -- Barrel trench: This needs an official public investigation! The metal barrels certainly must all be rusted away and their toxic contents loose. This trench, reported as containing 35,000 cubic yards of waste, was in operation from 1986 to 1990. It must be venting pollutants to the air. But a groundwater monitoring well slated for installation under the barrel trench has yet to be installed 20 years later.

9 -- Test for and prevent escape of very volatile & highly toxic mercury. Only 2% by weight of extremely toxic mercury is allowed in the present and proposed

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permit. But for a 5-ton load of waste, 2% would amount to 200 pounds -- a whale of a lot. But because only grab samples from the top of any incoming load are tested, and loads may be left sitting out for weeks or months after arrival, any mercury would have volatilized into the city's air. Its actual quantities are, therefore, **unaccountable**.

10 -- Taking & testing groundwater samples: PDC sets the day, time and means for collecting samples, not the EPA. Also, the bulk of the testing of the samples is reportedly given over by the EPA to PDC, which PDC also does in its own Peoria lab.

11 -- Problem reporting: The EPA permit gives PDC 30 days to report any problems it may find, even breakdowns in the landfill. That is an inordinate length of time.

12 -- Why is this landfill for toxic waste located right in a heavily populated area when there are over 100,000 acres of former stripmine land in the 4-county Peoria area, and much more elsewhere? The IEPA says the legislature has given it no authority to take into account "location," only operation rules, and that location is up to the land owner and local officials.

13 -- The public hearing held by the county board two years ago on PDC's landfill was the longest (6 days and evenings) and most attended in county history. The county board voted 12 to 6 not to issue a new operating permit.

Previously a Circuit Court ruling in Chicago held that any increase in original landfill capacity, up, down, or sideways, is expansion.

LEGAL BASIS FOR CASE PCB 08-42,
PREFACE TO BRIEF FROM TOM EDWARDS,

— see next page

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Legal brief for PCB 08-42, Tom Edwards brief. ⁵

CONSTITUTION OF THE STATE OF ILLINOIS
ARTICLE XI
ENVIRONMENT

Section 1. Public Policy - Legislative Responsibility.

The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy.

Section 2. Rights of Individuals.

Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law.

PREAMBLE TO THE ILLINOIS ENVIRONMENTAL PROTECTION ACT

2. (a) The General Assembly finds:

(i) **that environmental damage seriously endangers the public health and welfare, as more specifically described in later sections of this Act;**

(vi) **that despite the existing laws and regulations concerning environmental damage there exists continuing destruction and damage to the environment and harm to the public health, safety and welfare of the people of this State, and that among the most significant sources of this destruction, damage, and harm are the improper and unsafe transportation, treatment, storage, disposal, and dumping of hazardous wastes;**

(b) **It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.**

c) **The terms and provisions of this Act shall be liberally construed so as to effectuate the purposes of this Act [720 ILCS 5/1-1 et seq.].**