



Center for Health, Environment & Justice

P.O. Box 6806 • Falls Church, VA 22040 • Phone: 703.237.2249 • Fax: 703.237.8389 • www.chej.org

September 25, 2008

Members of the Illinois Pollution Control Board
c/o Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

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~~RECEIVED~~
CLERK'S OFFICE

SEP 25 2008

STATE OF ILLINOIS
Pollution Control Board

Re: In the Matter of the RCRA Delisting Adjusted Standard Petition of the Peoria Disposal Company; Case No. AS 08-10

Dear Members of the Board:

The Center for Health, Environment and Justice (CHEJ) is a national organization that works with hundreds of community-based organizations nationwide who are concerned about the proper disposal of hazardous and non-hazardous waste. CHEJ was founded over 25 years ago by Lois Gibbs, the woman who organized the community efforts at Love Canal in Niagara Falls, NY. Ms Gibbs, the Executive Director of CHEJ, visited the Peoria community in 2005 at the request of the River Rescue, a local community-based group. CHEJ has been providing support to River Rescue and other members of Peoria for over four years to help address their concerns about the health and environmental impacts of the continued operation of the Peoria Disposal Company's (PDC) hazardous waste landfill located in Peoria County, IL.

River Rescue asked that CHEJ review the petition and accompanying technical documents filed by PDC and submit comments to the Board. CHEJ is providing these comments in response to this request. We are, however, also concerned about the national implications of delisting a waste using a proprietary process that is publicly undisclosed. Making such a decision would set a dangerous precedent that could potentially affect many communities across this country.

PDC has petitioned the Illinois Pollution Control Board (IPCB) to delist electric arc furnace dust (K061 type waste) that it treats on-site at its hazardous waste disposal facility in Peoria. PDC claims that they have developed a new waste treatment process that allows it to treat this waste and make it non-hazardous which will allow them to dispose of this waste in any non-hazardous waste landfill.

Electric arc furnace (EAF) dust or K061 waste typically includes a broad range of heavy metals including antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, thallium, and zinc. Electric arc furnace dust is defined

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that electric arc furnace dust poses a serious public health and environmental hazard that must be properly disposed of in a licensed hazardous waste disposal facility. The EPA guidance manual (2000) for delisting a defined hazardous waste states that a complete petition will include the following information:

- A detailed description of the manufacturing and treatment processes generating the petitioned waste and the volume of waste generated.
- A discussion of why the waste is listed as hazardous and a description of how the waste is managed.
- A discussion of why samples collected in support of the demonstration are thought to represent the full range of variability of the petitioned wastes.
- Results from analyses of a minimum of four representative samples of the petitioned waste for: (1) applicable hazardous waste characteristics (ignitability, corrosivity, or reactivity); (2) total and leachable concentrations of all hazardous constituents likely to be present in the petitioned waste; and (3) total oil and grease.
- Chain-of-custody records and quality control (QC) data for all analytical data.
- In some cases, ground water monitoring information, if the petitioned waste has been disposed of in a land-based hazardous waste management unit.
- A statement signed by an authorized representative of the facility certifying that all information is accurate and complete.

After having reviewed the PDC's petitioned documents and attachments, it is clear that PDC fails to show that their new hazardous waste treatment process meets all of these criteria. As a result, CHEJ feels that the IPCB has no choice but to reject PDC's petition to delist EAF dust waste. The primary basis for this decision is that the petition fails to provide "a detailed description of the manufacturing and treatment processes generating the petitioned waste" as described above. The information necessary to independently evaluate whether PDC's new proprietary process can in fact eliminate the characteristics of EAF dust waste that presents a hazard to either human health or the environment is not included in the petition nor in the technical documents that are attached. More specifics are provided below.

PCD's technical document prepared by RMT, Inc. includes a section called "Process and Waste Management Information" that does contain a general description of the treatment process. Unfortunately, no details on the proprietary process are included. In fact, the reader is referred to Appendix F for information on the "composition of PCD's proprietary metals treatment reagents, including a description of the chemical reagents" (p. 3-16). But when you go to Appendix F, this information is "redacted" or excluded from the appendix. It seems disingenuous to refer readers to information that is intentionally excluded from the documents.

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Furthermore, there is no stated track record for this new hazardous waste treatment process. PDC is introducing a new process (see page 3-16) even though they apparently have no idea how long it will last. PDC provides no data to indicate how long this treatment process will solidify and encapsulate the electric arc furnace dust. Without such data, it is entirely possible that this waste treatment process will fail within a few years, or perhaps, even sooner.

PDC acknowledges the lack of certainty in the effectiveness of this new process by including a "proposed provision for additional treatment through curing time (see pages 3-18 to 3-20). PDC specifically points to "weather conditions, particularly ambient air temperatures during the curing process," as a significant factor influencing the effectiveness of the treatment process (p. 3-18).

Another example of PDC's lack of experience with this new treatment process is provided by the discussion of the procedures used to collect samples of the electric arc furnace dust for analysis. PDC discusses the need to mix smaller quantities of the electric arc furnace (EAF) dust with reagents of the new treatment approach because of the "physical characteristics of the new chemical treatment regimen" (p. 5-2). According to PDC, these reagents became "very stiff and somewhat hydrophobic (relative to PDC's typical treatment reagents) when water was added. To adapt to this, PDC personnel quickly learned it was best to treat smaller than normal loads, and to first blend the waste and all the chemical reagents prior to adding the water" (p. 5-2).

It is clear that PDC is still learning about this treatment process. The public has the right to know what constituents make up the chemical reagents used in this proprietary process in order to independently evaluate its effectiveness. To delist this process without requiring PDC to publicly disclose the specifics of this process violates the USEPA guidance delisting criteria and may result in the eventual leaching of substantial quantities of toxic heavy metals from unprotected subtitle D landfills. This would be a grave error that will jeopardize the quality and safety of the groundwater surrounding the unprotected landfills where this waste would be disposed of.

Another concern that CHEJ has about the PDC petition is whether PDC even qualifies as a generator of the waste that it is applying to delist. PDC states in its technical document that they are a generator of "residues from the treatment of waste materials at the WSF (waste stabilization facility) (p. 3-2). It has been established by the Illinois Environmental Protection Agency (IEPA) that PDC is not a generator of waste. In a letter dated August 30, 2007, the IEPA states that "the treatment residues from PDC's treatment operations do not constitute 'waste generated by such persons own activities.' The treatment residues are derived from waste that were initially generated by off-site generators and, for purposes of the exclusion, are not generated and managed exclusively at facilities owned, controlled or operated by PDC."

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According to the USEPA guidance manual for delisting waste, the purpose of the petition process is to allow "those who are interested in submitting a petition to exclude or "delist" a listed hazardous waste *produced at a particular facility* from the lists of hazardous waste in 40 CFR Part 261, Subpart D" (emphasis added). Since the IEPA has determined that PDC is NOT a facility that generates its own waste, but rather a disposal facility that generates a residue from the treatment of waste generated by others, it seems that PDC has no basis for submitting a petition to delist waste that it does not generate. In this case, PDC is simply seeking to extend the life of its landfill capacity by treating this waste on-site and shipping it off-site to a non-hazardous landfill disposal facility.

Lastly, I could not find a number of appendices to the Technical Document which appends the PDC petition. This includes Appendices A, C, D, E, G, I, J, K, L, M, and N. These appendices were not in the files identified on the IPCB website as part of the initial filing. If these documents are located elsewhere, please let me know where they are. If they are not part of the public record, they must be made publicly available so that the information included can be reviewed by the public. Appendix J of the Technical Document, for example, includes chain-of-custody information required by the USEPA for delisting a waste stream. Without this information, it is not clear if this criterion has been met.

In summary, CHEJ asks that the Board deny PDC its petition to delist the treated EAF dust residue first on the basis that it fails to meet the criteria for delisting because they provide insufficient information to evaluate the process used to treat the residue and second on the basis that they are not a generator of the EAF dust but rather a generator of a residue from the treatment of EAF dust with undisclosed chemicals that is not subject to the delisting process.

Please do not hesitate to contact me at the phone number listed above if you have any questions. Thank you for your consideration.

Sincerely,



Stephen Lester
Science Director



Center for Health, Environment & Justice

P.O. Box 6806 • Falls Church, VA 22040 • Phone: 703.237.2249 • Fax: 703.237.8389 • www.chej.org

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Page(s) to Follow

Date:

9-25-08

To:

IPCB

Fax:

312-814-3669

Tele:

Att: John Therriault

From:

(703) 237-2249 - **Ext.** -----
FAX (703) 237-8389

Subject:

Comments on Case No. AS 08-10

Per our conversation earlier this afternoon.