

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CLEAN)
CONSTRUCTION OR DEMOLITION)
DEBRIS (CCDD) FILL OPERATIONS:)
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code 1100)

R12-9
(Rulemaking – Land)

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OCT 17 2011

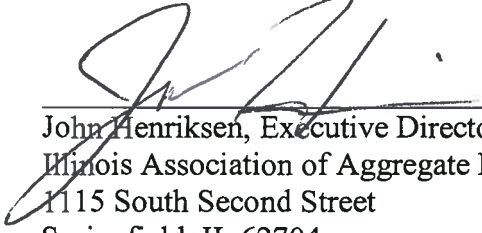
NOTICE OF FILING

STATE OF ILLINOIS
Pollution Control Board

TO: SEE ATTACHED PROOF OF SERVICE

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Pre-Filed Questions of Kenneth Liss submitted by the Illinois Association of Aggregate Producers, copies of which are served upon you.

By:



John Henriksen, Executive Director
Illinois Association of Aggregate Producers
1115 South Second Street
Springfield, IL 62704
217.241.1639

Date: October 14, 2011

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PRE-FILED QUESTIONS OF KENNETH LISS
SUBMITTED BY THE ILLINOIS ASSOCIATION OF AGGREGATE PRODUCERS

1. Did you review the Agency's proposed amendments to 35 Ill. Adm. Code Part 1100 prior to the filing of your testimony with the Illinois Pollution Control Board?
2. Did you also review Public Act 96-1416 prior to the filing of your testimony with the Illinois Pollution Control Board?
3. Prior to the enactment of Public Act 96-1416, did the Illinois Environmental Protection Agency (IEPA) regulate the operation of soil fill sites?
4. Isn't it true that the IEPA's proposed amendments to 35 Ill. Adm. Code Part 1100 seek to regulate the operation of soil fill sites?
5. Yet on page 2 of your pre-filed testimony, you state: "The Agency's proposed rules take a hands-off approach, with no effective regulation of soil fill sites." Is that correct?
6. Is it true, as stated on page 4 of your pre-filed testimony, that "No owner/operator certification is required to be obtained by fill operators"?
7. Is it true, as stated on page 4 of your pre-filed testimony, that "... generator certification is an important deterrent to waste being disposed of improperly".
8. Is it true, as stated on page 4 of your pre-filed testimony, that "There are no screening requirements for fill operations"?
9. Is it true, as stated on page 4 of your pre-filed testimony, that "There are no standards set forth in the Agency's proposed rules regarding sampling (see Section 1100.610)"?
10. Is it true, as stated on Page 4 of your testimony, that Public Act 96-1416 allows "...soil contaminated with 'background' levels of benzo(a)pyrene removed in connection with a brownfield clean-up project . . . disposed of in an unlined fill operation"?

11. On page 5 of your pre-filed testimony, you refer to the IEPA enforcement action entitled *People v. Stark Excavating, Inc., Case No. PCB 09-65*.
 - Did you review this enforcement case prior to the filing of your testimony with the Illinois Pollution Control Board?
 - Was this enforcement case brought by the IEPA because the operator had impacted groundwater?
 - Did the Illinois Pollution Board find that the operator had impacted groundwater?
12. On page 5 of your pre-filed testimony, you refer to the IEPA enforcement action entitled *People v. 87th & Greenwood, LLC, Case No. PCB 09-71*.
 - Did you review this enforcement case prior to the filing of your testimony with the Illinois Pollution Control Board?
 - Was this enforcement case brought by the IEPA because the operator had impacted groundwater?
 - Did the Illinois Pollution Board find that the operator had impacted groundwater?
13. On page 5 of your pre-filed testimony, you refer to the IEPA enforcement action entitled *People v. Reliable Materials et al., Case No. PCB 12-52*.
 - Did you review this enforcement case prior to the filing of your testimony with the Illinois Pollution Control Board?
 - Was this enforcement case brought by the IEPA because the operator had impacted groundwater?
 - Isn't true that the Illinois Pollution Control Board has not, in fact, even rendered a decision against the operator in this case?
14. Is it true, as stated on page 6 of your testimony, that "If groundwater monitoring is ever conducted and monitoring data indicates that a groundwater standard has been exceeded, the operator can self-certify at any point that there was an error or possibly an offsite influence causing the aberration"?
15. Is it true, as stated on page 6 of your testimony, that "At any time during this review process of data, the operator may implement Section 1100.760 Dewatering Fill Operations and forego any further investigation of groundwater contamination, cease monitoring and any required corrective action in its entirety, possibly forever"?

PROOF OF SERVICE

I, John Henriksen, certify that I have served the attached Pre-Filed Questions of Kenneth Liss submitted by the Illinois Association of Aggregate Producers and Notice of Filing, by FedEx, overnight delivery, on October 14, 2011, to the following:

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601;

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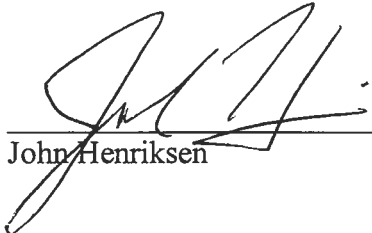
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**STATE OF ILLINOIS
Pollution Control Board**

and by first class mail, postage prepaid, on October 14, 2011, to the following:

Marie Tipsord, Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph St., Suite 11-500 Chicago, IL 60601	Matthew J. Dunn, Chief Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602
Stephen Sylvester, Asst. Attorney General Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602	Claire A. Manning Brown, Hay & Stephens LLP 700 First Mercantile Bank Building 205 South Fifth St., P.O. Box 2459 Springfield, IL 62705-2459
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Michele Gale Waste Management 720 East Butterfield Road Lombard, IL 60148	Mitchell Cohen, General Counsel Illinois Department of Natural Resources One Natural Resources Way Springfield, IL 62702-1271
Steven Gobelman, Geologic/Waste Assessment Specialist Illinois Department of Transportation 2300 S Dirksen Parkway Springfield, IL 62764	Tiffany Chappell City of Chicago, Mayor's Office of Intergovernmental Affairs 121 N. LaSalle Street City Hall - Room 406 Chicago, IL 60602

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Greg Lansu, Attorney Land Reclamation & Recycling Association 2250 Southwind Blvd. Bartlett, IL 60103	



John Henriksen