

October 14, 2011

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CLERK'S OFFICE

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STATE OF ILLINOIS
Pollution Control Board

John Therriault, Clerk

Illinois Pollution Control Board

James R. Thompson Center

Suite 110500

100 West Randolph

Chicago, IL 60601

ORIGINAL

R10-9

PC# 1

RE: Comment on Proposed Amendments To Clean Construction or
Demolition Debris Fill Operations (Rulemaking-Land)

Dear Clerk and Members of the Illinois Pollution Control Board:

My name is Pat Metz and I am an employee of City Water, Light and Power (CWLP) in Springfield Illinois. CWLP is a municipally owned utility. One of my responsibilities with the Utility is to assure compliance with state and federal regulations pertaining to the proper disposal of waste generated by the Utility. One of these wastes is the material that is generated when water or sewer lines are installed or repaired. This letter is written as a personal comment from my experiences at CWLP in trying to comply with the Public Act 96-1416. I would like all involved to realize what I consider to be the detrimental impact of this new law to the environment and at the same time express my support specifically to the addition of the term "potentially impacted property" in the proposed rules.

In performing my job I have always attempted to follow the waste management hierarchy that I believe the Illinois Environmental Protection Agency (IEPA) endorses of Reduce, Reuse and Recycle whether it be with paper, batteries, light bulbs, used oil, hazardous materials or excavated material. I was very disappointed with the passage of PA 96-1416 because it immediately caused our Utility to implement a practice contrary to the Reduce, Reuse, Recycle waste management hierarchy. In addition, I do not believe that the regulations required by PA 96-1416 are necessary to protect the environment.

Prior to the enactment of PA 96-1416 on July 30, 2010, CWLP disposed of excavated material at a local quarry that is permitted by IEPA to accept Clean Construction Demolition Debris (CCDD). This seemed to be an environmentally acceptable option because there were safeguards in the program to check that contaminated CCDD was not placed in the quarry. After PA 96-1416 was enacted with an immediate effective date, in part because of the interpretation of some of the terms, we had no realistic choice but to take the excavated material to a local landfill if we wanted to continue to comply with IEPA requirements, at a much greater expense to the Utility. While the annual expense in excess of \$150,000 is a concern, my greater concern is filling limited landfill space with material that does not need to be placed there. If this was a small quantity I would probably not be writing this letter. However, for our Utility alone, we are disposing in excess of 8,000 tons per year. This does not include the concrete and asphalt which we recycle. Since every municipality in the state has underground water lines and most have underground electrical lines and there are more than 1,000 municipalities in Illinois, a

person can quickly see that valuable landfill space will be used very quickly if everyone tries to comply with the requirements as we have.

While it is recognized that the amended law does not mandate that the CCDD be placed in a landfill, to me the Utility's only choice for handling the excavated material in compliance with IEPA's requirements was to dispose of it in a local landfill. The majority of our excavations are related to water pipe repairs and these pipes are generally located in a street. Engineering practice prohibits placing the excavated material back in the hole because settling would cause the finished road to fail. The original interpretation of the Agency is that street right-of-ways are "commercial/industrial" properties that require a licensed Professional Engineer to sign off on the material as not being contaminated. I am not aware of any PE that can look at a pile of dirt and know that none of the more than 100 chemicals are present in an amount above that established by the Agency. I am a licensed Illinois Professional Engineer but unwilling to risk my license on a determination of uncontaminated CCDD. The other option is to take a representative sample of the CCDD and have it analyzed for the numerous chemicals. Besides the fact that such an analysis will cost over \$1,000 per location, it typically will take a laboratory at least a week to analyze the sample. Unlike the Department of Transportation or a private road contractor who can take a composite sample of the soil before the project begins, we do not know where we will be digging until a pipe breaks and each location warrants a specific determination. During the winter it is not unusual to have 4 water main breaks in one day, each generating 3 or 4 truckloads of material. Where do we store the material from 60 truckloads a week while we wait for the sample results? Because of these issues, CWLP made the decision to take the material to a local landfill. The latest Annual Landfill Capacity Report on the Agency's website estimates that Illinois has landfill space for 23 years. What do we do then? I believe Public Act 96-1416 is requiring our Utility to fill the local landfill with material that does not need to be placed there. I attended the September 26 hearing in Springfield regarding the Agency's proposed rules and it seemed to me that no one from the Agency was able to provide documentation for the need for the more stringent regulation of CCDD. Admittedly since groundwater monitoring was not required at permitted quarries in the past, there is no data to indicate that there is or is not a contamination problem. Why is the material assumed to be so bad to warrant analysis for over 100 chemicals and forcing us to disregard the waste hierarchy? All of our efforts to Reduce, Reuse and Recycle are negated when we fill the landfill with 8,000 tons of dirt per year. My attempts to have the landfill use the material for beneficial use as cover material were not successful.

While it is my belief that the only solution to the problem that was created is to repeal PA 96-1416, I understand that until then, the Agency is required to propose the rules associated with this law. I would like to express my appreciation and support for the addition of the term "potentially impacted property" to the latest version of the proposed regulations. If adopted, this will allow our Utility to use common sense in determining if we can resume taking our material to the local quarry for beneficial use. I regret that it has been decided that we actually need to wait a year to implement this change until the rules are adopted. This does not make sense since the current requirements related to commercial/industrial property is based on an Agency interpretation which, based on the proposed language, has been revised. There is a lot of valuable landfill space that could be saved if this decision could be implemented immediately.

I appreciate the opportunity to provide my comments. If you have any questions you can contact me at 217/836-5355.

Very truly yours,

A handwritten signature in black ink that reads "Pat Metz". The signature is written in a cursive, slightly slanted style.

Pat Metz, P.E.