

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CLEAN) **R12-009**
CONSTRUCTION OR DEMOLITION) **(Rulemaking – Land)**
DEBRIS (CCDD) FILL OPERATIONS:)
PROPOSED AMENDMENTS TO)
35 Ill. Adm. Code 1100)

NOTICE OF FILING

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

Marie Tipsord, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

See also attached Service List

Please take notice that on the 17th day of April 2012, I have filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the attached **FIRST NOTICE COMMENTS OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**, a copy of which is hereby served upon you.

/s/ Ronald M. Hill

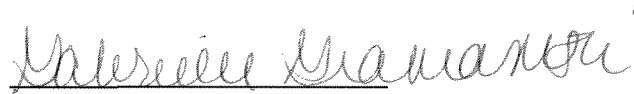
Ronald M. Hill, General Counsel
Metropolitan Water Reclamation
District of Greater Chicago
100 E. Erie, Room 301
Chicago, Illinois 60611
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PROOF OF SERVICE

The undersigned, a non-attorney, certifies under penalties of perjury pursuant to 735 ILCS 5/1-109, that I caused to be served the attached **FIRST NOTICE COMMENTS OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**, upon:

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

via electronic filing on April 17, 2012; and upon the attached Service List by depositing said document in the United States Mail, postage prepaid, at 100 E. Erie, Chicago, Illinois on April 17, 2012.


Christine Mawambi

SERVICE LIST

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**COMMENTS OF THE METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO TO THE FIRST NOTICE
PROPOSAL OF THE IPCB TO AMEND THE CLEAN CONSTRUCTION OR
DEMOLITION DEBRIS FILL OPERATIONS (CCDD) (35 Ill. Admin. Code 1100)**

The Metropolitan Water Reclamation District of Greater Chicago (“MWRD”), by its General Counsel Ronald M. Hill, files its comments in this pending rulemaking directed to the Illinois Pollution Control Board (“IPCB”) as set forth in the order of the Hearing Officer dated March 14, 2012:

The MWRD agrees with the IPCB’s determination not to proceed with the groundwater monitoring provisions of Subpart G and with the IPCB’s continued finding that uncontaminated soil fill operations, that are not former quarries, mines, or other large excavations, are not required to be permitted, only registered. The MWRD, as the owner of various parcels of land that are the location of former quarries, mines, or other large excavations, and of other potential soil fill locations that are not, may in the future elect to fill those areas with CCDD and/or uncontaminated soils. Had the IPCB adopted the aforementioned provisions, the result would have imposed onerous regulatory and financial constraints on the MWRD when filling large excavations on its property.

The MWRD agrees with use of the phrase “potentially impacted properties” (PIPs) rather than “commercial or industrial” for describing properties that may have been touched by contamination, and therefore, are assessed more fully than properties

that have little probability of being contaminated. This change should avoid confusing this designation with zoning designations.

The MWRD agrees with the IPCB's use of the TACO Tier 1 objectives as MACs for determining whether soils are uncontaminated. However, the MWRD suggests that there should be a minimum percentage (incidental volume) of soil in CCDD, either from a site or in a particular load, below which certifications would not be required. Not having such a percentage is unreasonable since most construction activity may result in some soil being commingled with the CCDD. Also, the MWRD finds that the soil sampling protocol is vague and leaves the location of soil sampling points and number of samples to the discretion of the LPE or LPG. A better definition and discussion of the required sampling protocol should be incorporated into the rule.

According to the proposed rule, the inability of a source site owner or operator to certify a site (as not a Potentially Impacted Property) requires that the soils from the site be certified by a LPE/LPG. The inability to certify a site may arise from several reasons, including inadequate knowledge of the history of the site, or even unfamiliarity with following the applicable ASTM standard (ASTM E1528-06). The MWRD suggests that the IPCB consider allowing a source site owner or operator to obtain a source site certification (that the site is not a Potentially Impacted Property) utilizing the services of an independent LPE/LPG, without testing soil samples.

The proposed Rule makes several references to "site" and "site of origin". It should be clarified whether the Rule authorizes site certification based on segregation of

a construction site into distinct parcels or portions of parcels, particularly when the "site" in question encompasses a large area.

There is a distinct possibility that in CCDD from below-grade operations, some portions of soil could become commingled with the CCDD from below-grade. It should be clarified in the Rule whether, under circumstances in which construction operations are generating CCDD from both above-grade and below-grade operations, above-grade and below-grade CCDD may be separated to minimize the volume of CCDD requiring certification/testing (for soils).

CONCLUSION

WHEREFORE, the Metropolitan Water Reclamation District of Greater Chicago submits the foregoing comments for consideration by the Illinois Pollution Control Board in formulating its final rule regulating clean construction or demolition debris fill operations in the state of Illinois.

Dated: April 17, 2012

Respectfully Submitted,

Metropolitan Water Reclamation
District of Greater Chicago

BY: 

Ronald M. Hill, General Counsel

Ronald M. Hill
Margaret T. Conway
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