

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PETITION OF BRICKYARD DISPOSAL & RECYCLING, INC.,)	
)	PCB No. 16-66
Petitioner,)	(Permit Appeal- Land)
)	
)	
v.)	
)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent)	

NOTICE OF FILING

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the Joint Statement of Facts. Copies of these documents are hereby served upon you, via electronic filing or service.

To: John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

David G. Samuels
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
dsamuels@atg.state.il.us
ebs@atg.state.il.us

Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Carol.webb@illinois.gov

Dated: November 4, 2016

BROWN, HAY & STEPHENS, LLP

Claire A. Manning
cmanning@bhslaw.com
Registration No.: 3124724
William D. Ingersoll
wingersoll@bhslaw.com
Registration No.: 6186363
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459

Respectfully submitted,

BRICKYARD DISPOSAL &
RECYCLING, INC

By: /s/Claire A. Manning

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JOINT STATEMENT OF FACTS

NOW COMES Petitioner, BRICKYARD DISPOSAL & RECYCLING, INC. (“Brickyard”), and Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“IEPA”), and, in order to aid the Illinois Pollution Control Board (the “Board”) in its decision regarding the Parties’ respective Motions for Summary Judgment, the Parties have agreed to the following Joint Statement of Facts (“Joint Statement”).

The Parties have endeavored to cooperate to the greatest extent possible in drafting this Joint Statement to facilitate efficient resolution of these issues by the Board; however, the parties do not intend that the absence of a Joint Statement on a particular topic to be an admission or an agreement as to whether the underlying fact is relevant, material, or disputed. The Parties agree that the stipulated facts below may be used for the Board in its consideration of the filed Motions for Summary Judgment, Responses and Reply briefs, but do not agree to them in any other manner.

Joint Statement of Facts

1. Brickyard Disposal & Recycling, Inc. owns and operates a landfill facility in Vermilion County, Illinois. R. 47005.

2. On June 1, 1981, the IEPA issued a development permit for the landfill facility consisting of a 293-acre site with waste disposal occurring on 152 acres, under a single landform with a maximum height of 675 feet. Permit No. 1981-24-DE. R. 06535.
3. On April 27, 1987, the IEPA issued Supplemental Permit No. 1987-024-SP to, among other things, divide the landfill “into two (2) units with Unit 1 consisting of the southern portion of the facility and Unit 2 constituting the northern portion” R. 06521. This permit affirmed the final elevation contours and waste boundaries in Permit No. 1981-24-DE, as set forth in paragraph 2 above. R. 06522.
4. In September 1991, Brickyard filed a “Request for Site Approval for a Regional Pollution Control Facility” with the Vermilion County Board (R. 47211–28) seeking local siting approval for “the volumetric expansion of the existing landfill” (R. 47215).
 - a. In relevant part, the public notice of the request stated that Brickyard was seeking an expansion that would consist of a lateral expansion of approximately 21 acres and a 40-foot vertical expansion over a portion of the currently permitted facility. R. 47411.
 - b. A visual depiction of the requested expansion area, consisting of a vertical and lateral expansion, was included in the request as Figure 1. R. 47218 and Sheet No. 89-115-1, R. 47355.
 - c. The Request for Site Approval contained Drawing No. 89-115-4, entitled “True Profile North–South of Proposed Vertical Expansion 675–715 MSL” (R. 47358, or R. 00349 for better quality view) which depicted:
 - i. “Original Profile”
 - ii. “Current Permit Profile”
 - iii. “Average Eye Level at Entrance”
 - iv. “Proposed Profile”
 - d. The vertical expansion was generally described in the real estate analysis of the siting application as calling for “a forty foot (40') vertical increase in height of the existing facility over a 90-acre portion of the total 293-acre facility. This raises the ceiling from 675 to 715 feet above sea level.”
5. On February 11, 1992, the Vermilion County Board adopted a resolution approving Brickyard’s Request for Site Approval. R. 47498–99.
6. Supplemental Permit No. 1992-188-SP was issued by the IEPA on October 22, 1992 (R. 06485) and approved the “revised final contours within the approval granted by the

Vermilion County Board ... ” and final contours for Unit 1 consistent with drawing No. 89-115-4R (R. 0351) submitted with the permit application.

7. Permit No. 1994-419-LFM for the facility (Unit I and II) was issued by the IEPA on May 4, 1995. R. 04879. A description of the permit action and the landfill is found on the first page with permit conditions beginning on the third page (R. 04880).
 - a. In relevant part, the description of the permit action and the landfill included:
 - i. Part 814, Subpart D was applicable to Unit I and Part 814, Subpart C was applicable to Unit II.
 - ii. “This landfill has a footprint area of approximately 152 acres within the 293-acre site”
 - iii. “Unit II has approximately 14.2 million airspace cubic yard capacity.”
 - iv. Documents submitted and approved constitute part of the permit and the application included “documents received September 9, 1994, Addendum I received January 27, 1995 and Addendum II received March 27, 1995.
 - b. Special Condition XII.1 regarding Monitoring Programs provided: “(a) separate berm shall be maintained between Unit I and Unit II which will allow independent groundwater monitoring.” R. 04898.
8. The permit application at issue in this appeal was initially filed on August 31, 2015, and is identified as Permit No. 1994-419-LFM, Log No. 2015-421. R. 46993 - 47200. In it, Brickyard proposes a modification to its permit to allow disposal of municipal solid waste in Zone A. R. 46997. Included in the Application was the following statement:

The total waste volume of the Brickyard Disposal and Recycling Landfill will be increased by approximately 1,010,000 yd.³ thereby providing a total Unit 2 waste volume of 15,210,000 yd.³ fill capacity as opposed to the currently permitted 14,200,000 yd.³ capacity. The documented estimated remaining life expectancy of Brickyard Disposal and Recycling Landfill is 16 years per the January 1, 2015 Annual Landfill Capacity Certification. With the addition of 1,010,000 yd.³ of waste capacity in the "Zone A" Fill Area the life expectancy of the landfill increases to approximately 21 years. Appendix F (“Design Calculations”), Attachment 2 (“Waste Volume Calculations”) R. 47069.
9. On September 24, 2015, the IEPA sent a letter to the applicant, stating the application was incomplete for, among other reasons, lack of siting. R. 47571-47573.

10. On October 30, 2015 Brickyard responded to the IEPA's September 25, 2015 letter by submitting a Supplemental Application entitled "Additional Information for Log No. 2015-421: Zone A Redesign." R. 47204-47530.
11. On November 25, 2015, the IEPA issued an Incompleteness Determination which is the subject of this appeal. R. 47531 – 47532.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

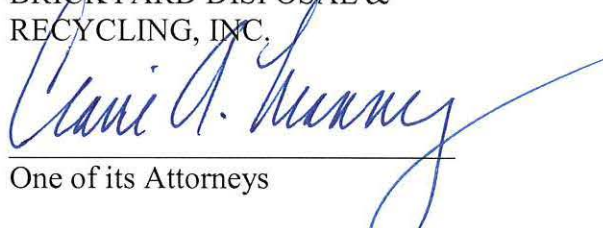


One of its Attorneys

Office of the Attorney General

David Samuels
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
dsamuels@atg.state.il.us
ebs@atg.state.il.us

BRICKYARD DISPOSAL &
RECYCLING, INC.



One of its Attorneys

Brown, Hay & Stephens, LLP

Claire A. Manning
Partner
205 South 5th Street
Suite 700
Springfield, Illinois 62701
cmanning@bhslaw.com

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 4th day of November, 2016, I have served by the manner indicated below the attached JOINT STATEMENT OF FACTS upon the following persons:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
(Via Electronic Filing)

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Carol.webb@illinois.gov
(Via Email)

David G. Samuels
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
dsamuels@atg.state.il.us
ebs@atg.state.il.us
(Via Email)

By: /s/Claire A. Manning

BROWN, HAY & STEPHENS, LLP

Claire A. Manning
cmanning@bhslaw.com
Registration No.: 3124724
William D. Ingersoll
wingersoll@bhslaw.com
Registration No.: 6186363
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491