

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 17 2006

IN THE MATTER OF:)
)
CLEAN CONSTRUCTION OR DEMOLITION)
DEBRIS FILL OPERATIONS)
(35 ILL. ADM. CODE PART 1100))
)

R06-19
(Rulemaking -Land)

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

Dorothy Gunn, Clerk,
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

General Counsel
Office of Legal Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

Matt Dunn
Environmental Bureau Chief
Office of the Attorney General
James R. Thompson Center
100 W. Randolph, 12th Floor
Chicago, Illinois 60601

Amy Antonioli
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, Illinois 60601

John Henrickson, Executive Director
Illinois Association of Aggregate Producers
1115 S. Second Street
Springfield, Illinois 62704

Tiffany Chappell
City of Chicago
Mayor's Office of Intergovernmental Affairs
121 N. LaSalle Street, City Hall - Room 406
Chicago, Illinois 60602

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the PRE-FILED TESTIMONY OF JOYCE MUNIE, PAUL M. PURSEGLOVE, CHRISTIAN J. LIEBMAN and THOMAS HUBBARD, ERRATA SHEET #1, and SUPPLEMENTAL STATEMENT, a copy of each of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: Stephanie Flowers
Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATE: January 12, 2006
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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SUPPLEMENTAL STATEMENT

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by and through one of its attorneys, Stephanie Flowers, and submits the following SUPPLEMENTAL STATEMENT to the Illinois Pollution Control Board ("Board") and the participants on the Service List.

This SUPPLEMENTAL STATEMENT addresses 35 Ill. Adm. Code 102.202(e), which was unintentionally left unaddressed in the Illinois EPA's proposal filed with the Board on November 21, 2005. The Board requested the Illinois EPA address subsection 102.202(e) in the Board Order dated December 1, 2005. Therefore, the Illinois EPA pursuant to 35 Ill. Adm. Code 102.202(e) and 102.202(k) states the following:

No published study or research report was used in developing the proposed 35 Ill. Adm. Code Part 1100.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Stephanie Flowers
Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATED: 1-12-06
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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R06-19
(Rulemaking - Land) STATE OF ILLINOIS
Pollution Control Board

ERRATA SHEET NUMBER 1

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by and through one of its attorneys, Stephanie Flowers, and submits this ERRATA SHEET NUMBER 1 to the Illinois Pollution Control Board ("Board") and the participants on the Service List.

SUBPART C: PERMIT INFORMATION

- 1100.301 Scope and Applicability
- 1100.302 Notification
- 1100.303 Required Signatures
- 1100.304 Site Location Map
- 1100.305 Facility Plan ~~Map~~ Maps
- 1100.306 Narrative Description of the Facility
- 1100.307 Proof of Property Ownership and Certification
- 1100.308 Surface Water Control
- 1100.309 Closure ~~Plans~~ Plan
- 1100.310 Postclosure Maintenance Plan

Section

- 1100.209 Postclosure Maintenance

The owner or operator must conduct postclosure maintenance in accordance with this Section and the Agency permit for a minimum of one year after the Agency issues a certificate of closure in accordance with Section 1100.412 of this Part unless a shorter period of time for postclosure maintenance is specified in the Agency permit. Reasons for which the Agency may specify a shorter period of time for postclosure maintenance include, but are not limited to, conformance with existing reclamation plan requirements, zoning requirements, local ordinances, private contracts, or development plans.

- a) The owner or operator must remove all equipment or structures not necessary for the postclosure land use, unless otherwise authorized by the Agency permit.

- b) Maintenance and Inspection of the Final Cover:
- 1) Frequency of Inspections. The owner or operator must conduct a quarterly inspection of all surfaces during closure and for a minimum of one year after closure.
 - 2) All rills, gullies, and crevices six inches or deeper identified in the inspection must be filled. Areas identified by the owner or operator or the Agency as particularly susceptible to erosion must be recontoured.
 - 3) All eroded and scoured drainage channels must be repaired and lining material must be replaced if necessary.
 - 4) All holes and depressions created by settling must be filled and recontoured so as to prevent standing water.
 - 5) All reworked surfaces, and areas with failed or eroded vegetation in excess of 100 square feet cumulatively, must be revegetated in accordance with the approved closure plan for the facility.
 - ~~6) The Agency must approve postclosure use of the property if the owner or operator demonstrates that the disturbance of the final cover will not increase the potential threat to human health or the environment~~
- c) The Agency must approve postclosure use of the property if the owner or operator demonstrates that the disturbance of the final cover will not increase the potential threat to human health or the environment.

1100.304 Site Location Map

All permit applications must contain a site location map on the most recent United States Geological Survey (USGS) quadrangle of the area from the 7 1/2 minute series (topographic) that clearly shows the following information:

- a) The site boundaries, the facility boundaries, and all adjacent property extending at least 1000 meters (3300 feet) beyond the facility boundaries;
- b) All surface waters;
- c) All potable water supply wells within 1000 meters (3300 feet) of the facility boundaries;
- d) All potable water supply well setback zones established pursuant to Section 14.2 or 14.3 of the Act;

- e) Any wellhead protection areas pursuant to Section 1428 ~~recharge zone~~ and any sole source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Water Drinking Act (42 USC 300f).
- f) All main service corridors, transportation routes, and access roads to the site and facility.

1100.309 Closure Plan Plans

The permit application must contain a written closure plan that contains, at a minimum, the following:

- a) Maps showing the configuration of the facility after closure of all units, including, but not limited to, appropriate contours as needed to show the proposed final topography after placement of the final cover for all filled areas. All maps must have a scale no smaller than one inch equals 200 feet;
- b) Steps necessary for the temporary suspension of CCDD filling in accordance with Sections 1100.208(a)(1)(B) or (a)(2) of this Part;
- c) Steps necessary for closure of the facility at the end of its intended operating life;
- d) An estimate of the expected year of closure;
- e) Schedules for temporary suspension of CCDD filling and closure, which must include, at a minimum, the total time required to close the facility and the time required for closure activities that will allow tracking of the progress of closure;
- f) A description of how the applicant will comply with Section 1100.208 of this Part; and
- g) A description of the final cover, including, but not limited to, the material to be used as the final cover, application and spreading techniques, the types of vegetation to be planted, and the types of roads or structures to be built pursuant to Section 1100.208 of this Part.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Stephanie Flowers*

Stephanie Flowers
Assistant Counsel
Division of Legal Counsel

DATED: *1-12-06*

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TESTIMONY OF JOYCE MUNIE IN SUPPORT OF
THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL TO ADOPT
35 ILL. ADM. CODE 1100

My name is Joyce Munie. I am the manager of the Permit Section within the Bureau of Land ("BOL") at the Illinois Environmental Protection Agency ("Illinois EPA"). I have been in my current position since February of 1999. The Permit Section is primarily responsible for reviewing the technical adequacy of applications for solid waste management facilities to determine compliance with the regulations found at 35 Ill. Adm. Code, Parts 701-726, 728, 730, 807, 810-814, 817, and 830-832.

Prior to assuming my current position, I was the manager of the Solid Waste Unit within the Permit Section of the Bureau of Land. I have also worked in the Permit Section in the Mine Pollution Control Program at the Illinois EPA. I have been employed at the Illinois EPA since 1984 following the receipt of a B.S. degree in Thermal and Environmental Engineering from Southern Illinois University at Carbondale. I have been a Registered Professional Engineer in Illinois since 1990. I received a M.S. degree in Civil Engineering from Southern Illinois University at Carbondale in 2002. A copy of my resume is attached (Attachment 1).

Today I will be testifying in support of the proposed regulations for clean construction and demolition debris fill operations at 35 Ill. Adm. Code, Part 1100.

Section 1100.101 - Applicability

These rules are meant to apply to a facility or a portion of a facility that accepts only clean construction and demolition debris ("CCDD") for fill in a quarry, mine or other excavation. These rules do not apply to quarries, mines, or other excavations used for fill if the CCDD is generated on the site where the filling is taking place. Also these rules do not apply in the case of an excavation, other than a quarry or mine, where the CCDD fill operation complies with the Illinois Department of Transportation ("IDOT") specifications. The IDOT specifications applicable to the use of CCDD as fill can be found at Articles 107.22 and 202.03 of IDOT's *Specifications for Road and Bridge Construction* (January 1, 2002) (copy of relevant portions attached). Questions have been raised over who may utilize the IDOT specification exemption. Please note that the specifications require an "Engineer" to approve the use. The term "Engineer" as used in these specifications is specifically defined therein as an IDOT engineer. In addition, the specifications discuss work that is being performed by a "Contractor." The term "Contractor" as used in the specification is specifically defined as an IDOT contractor. The specifications also discuss cultural and biological resource surveys performed by IDOT. Based on the applicability and language of the specifications, it appears that the IDOT specification exemption would be limited to IDOT projects.

These rules are not intended to apply to CCDD that is waste, or CCDD that is not being used as fill, or any material that is not CCDD including any material generated during the mining or quarrying operation. These rules also do not apply to the portion of a site that is not used for the CCDD fill operation.

Section 1100.130 - Severability

This Section is standard language used throughout Illinois Pollution Control Board (“Board”) regulation necessary to ensure that if any portion of the regulation were determined to not be in effect, the remainder of the proposed rules would continue to be effective.

Section 1100.201 - Prohibitions

Facilities regulated under the proposed rules are prohibited from conducting any CCDD fill operation in violation of the standards. This is standard language used in regulation of land based facilities. Also, CCDD fill operations can accept only CCDD, including uncontaminated soil, for use as fill and are prohibited from locating within a setback zone of a potable water supply well in accordance with the Illinois Environmental Protection Act (“Act”).

Section 1100.301 – Scope and Applicability

Subpart C of Part 1100 describes the permit requirements for all persons seeking a permit for CCDD fill operations. Subpart C defines the requirements for the permit application and the standards for review.

Section 1100.302 - Notification

A notice of application must be sent to the State’s Attorney and the Chairman of the County Board of the county in which the facility is located, each member of the General Assembly from the legislative districts in which the facility is located, and the clerk of each municipality located within three miles of the facility. The application must include proof that the notification has been made. This language is consistent with other language throughout the

Board regulations relating to BOL permits. The purpose of the notice provisions is to ensure that local officials are informed of activities in their jurisdiction in a timely manner. This allows the local officials to be responsive to their constituency in case there are any questions regarding activities in their area of responsibility.

Section 1100.303 – Required Signatures

All permit applications must contain the name, address, and telephone number of the owner of the land as well as the operator. Applications must be signed by both the owner and operator. If the application is signed by a duly authorized agent of the owner or operator, the application must contain the information for the duly authorized agent. All signatures must be notarized to ensure the validity of the signature.

This Section further defines who can qualify as a duly authorized agent. The duly authorized agent is a person that has specific permission to sign an application for an owner or operator and accept inquiries and correspondence on the part of the owner or operator. For a corporation, a duly authorized agent is a principal executive officer of at least the level of vice president. A duly authorized agent for a sole proprietorship is the sole proprietor and for a partnership it is a general partner. For a municipality, state, federal or other public agency, a duly authorized agent is the head of the agency or ranking elected official.

The persons defined in this Section as duly authorized agents may designate another person to sign the application on their behalf by submitting with the application an oath or affidavit attesting to the agent's authority to sign on behalf of the owner or operator. This language is consistent with other language throughout the Board regulations relating to BOL permits.

The requirement to have land owners as well as the operators sign an application is also a standard requirement for all applications for land based units. This requirement ensures that the owner of land, where material is permanently placed, will be fully informed and aware of activities on their land. This is particularly important for fill operations where the land will be permanently altered and affected by the operation. This is also consistent with the legislative mandate for the interim authorizations for these types of operations under Section 25.51(b)(1)(B) of the Act, which requires the signature of both the land owner and operator.

Section 1100.401 - Purpose of Subpart

Subpart D describes the procedures for permit applications and the Agency's requirements for review of permit applications for CCDD fill operations. This Subpart contains standards for approval as well as denial and also provides Agency deadlines for review of permit applications.

Section 1100.402 – Delivery of Permit Application

This Section requires that permit applications must be submitted on specific forms developed by the Agency for the purpose of allowing an applicant to demonstrate compliance with Part 1100. Further, it allows that an applicant can request, and the Agency must provide, a dated and signed receipt for the submission of an application. The Agency's record of receipt of an application is deemed conclusive unless a contrary date can be established by a dated and signed receipt. This language is consistent with other language throughout the Board regulations relating to BOL permits.

In practice, the receipt is generally recognized as the card that is returned when a submission is made by certified mail. This is often referred to as a “green card” because of the color of the form used by the U.S. mail service. However, the receipt can also be the signed form provided by a commercial delivery service such as UPS.

Section 1100.403 – Agency Decision Deadlines

The Agency must make a final decision on an application within 90 days of receipt of the application. Pursuant to Section 39 of the Act, if no final action is taken within 90 days of receipt of the application, the permit is deemed to be issued.

Subsection (b) of this Section 1100.403 provides procedures for the Agency to determine if the information and documentation is sufficient to allow for a review or if the application is incomplete. If the application is incomplete, the Agency must inform the applicant within 30 days of the original filing date and provide the applicant with the reasons. The determination of incompleteness can either be treated by the applicant as a permit denial for purposes of an appeal or the applicant can submit the information required to make the application complete and allow the Agency to move forward with a review. This language is consistent with other language throughout the Board regulations relating to BOL permits.

Subsection (c) allows the applicant to provide a waiver of the 30-day deadline to the Agency. Such waiver must be in writing prior to the deadline. Waivers allow an applicant to work with the Agency on deficiencies that are found in the application that can be cured with additional information or design changes. This waiver provision is consistent with other language throughout the Board regulations relating to BOL permits. This waiver provision will provide the same practical process as in other land based application processes whereby

deficiencies are identified, provided to the applicant, and the applicant is given an opportunity to correct the deficiencies and avoid a denial which would necessitate a resubmission of the entire application.

Subsection (d) of this Section includes provisions for an applicant to modify the permit application at any time prior to the Agency deadline. When an application is modified, the additional information is considered a new application for purposes of calculating the Agency decision deadline. This allows the Agency sufficient time to review the additional information.

Subsection (e) requires all notices of the final decision by the Agency to be mailed by registered or certified mail with a return receipt. The final action is deemed to have taken place on the date that the final action is signed. This language is consistent with other language throughout the Board regulations relating to BOL permits.

Section 1100.404 - Standards for Issuance of a Permit

This language is standard language for a permitting program from Section 39 of the Act. This Section requires the Agency to issue a permit when the applicant demonstrates that the facility will not cause a violation of the Act or Board rules. This Section also requires the Agency to impose any conditions necessary to accomplish the purposes of the Act when they are not inconsistent with Board rules.

Section 1100.405 - Standards for Denial of a Permit

This language is standard language for a permitting program from Section 39 of the Act. This Section requires the Agency to provide to the applicant a detailed statement of the reasons for denial within the time deadlines specified in Part 1100. This Section also requires

that the Agency include the specific Section of the Act or the regulations that would be violated if a permit were issued.

Section 1100.406 – Permit Appeals

This language is standard language for a permitting program from Section 40(a)(1) of the Act regarding the rights of an applicant to appeal a denial or any condition placed in a permit.

Section 1100.407 – Permit No Defense

This language is consistent with other language throughout the Board regulations relating to BOL permits. This provision advises that a permittee cannot use the fact that a permit was granted as a defense to a violation of the Act or Board regulations with the exception being as a response to a violation that the facility does not have a permit.

Section 1100.408 – Term of Permit

The permits issued under Part 1100 will have a term of 10 years. Having an expiration of a permit allows the Agency to specifically re-evaluate an operation on a routine basis. The permit term of 10 years was chosen due to the nature of these types of facilities since many are expected to close within that period and any that continue beyond that time would be larger and would need to be re-evaluated to ensure that any new technology or requirements needed for the operation remain current. The permits for these facilities must be maintained until the final maintenance under the post-closure requirements are complete, which is a standard

requirement for land based facilities. This Section also includes standard permit compliance language that is based on Section 30 of the Act.

Section 1100.409 – Transfer of Permits

This language is consistent with other language throughout the Board regulations relating to BOL permits. A permit can be transferred to a new owner or operator through a permit modification application. The permit modification application must demonstrate that the new owner and operator can comply with the regulations under Part 1100.

Section 1100.410 – Procedures for the Modification of Permits

This language is consistent with other language throughout the Board regulations relating to BOL permits. An owner or operator can request a modification to the permit by submitting an application demonstrating that the modification will comply with the applicable portion of the regulations under Part 1100.

Also, the Agency can modify a permit under the specified conditions. This includes discovery of a typographical or calculation error, discovery that a determination made or a condition imposed was based upon false or misleading information, an order by the Board, or promulgation of new statutes or regulations affecting the permit. An Agency initiated modification cannot take effect until after 45 days of receipt of the modification by the owner or operator. This time period allows the owner or operator to request a reconsideration of the modification to the Agency or file a petition with the Board to appeal the modification. This language is consistent with other language throughout the Board regulations relating to BOL permits.

Section 1100.411 - Procedures for the Renewal of Permits

This language is consistent with other language throughout the Board regulations relating to BOL permits. This Section requires an application for renewal be submitted to the Agency at least 90 days prior to the expiration date of the permit. This time is consistent with the period of time allowed the Agency to review an application. If an application is filed by this deadline, it is considered timely filed and will remain in effect until a final decision is made by the Agency.

An application for renewal only needs to contain the information that has changed since the last permit issued and be signed by the owner and operator. The renewal application is subject to all the same time frames, waiver provisions, and appeal provisions as any permit application regulated under Part 1100.

Section 1100.412 - Procedures for Closure and Postclosure Maintenance

This language is standard language for a permitting program and is consistent with other language throughout the Board regulations relating to BOL permits. Under this Section, the owner or operator must inform the Agency within 30 days of the last receipt of waste. This is needed to ensure that deadlines that follow the last receipt of waste are met. After the closure of the facility is complete, a certification of the completion of closure is submitted to the Agency. This certification contains documentation demonstrating that the facility was closed in accordance with the approved closure plan. The certification must include an affidavit by the owner or operator and a seal of a licensed professional engineer that the facility

vegetation growing on nonpaved areas and that the surface contains no cracks due to settling, or rills or gullies due to surface water runoff.

The Agency must notify the owner or operator in writing within 90 days of the receipt of the certification that the permit is terminated unless the Agency determines based on the information received in the certification or an Agency site visit that continued maintenance is necessary. The site investigation is typically performed after all work is complete and a certification has been submitted. Due to the fact that the Agency must rely heavily on the certification to make the determination, the seal of a licensed professional engineer is needed to ensure protection of human health and the environment and to release the applicant of any further regulatory requirements of Part 1100.

The owner or operator has the ability to appeal the decision made by the Agency regarding this certification and termination of permit.

By: Joyce L. Munie
Joyce L. Munie, P.E.

Date: 1/9/06

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Munie

Attachment 1

Joyce Munie, P.E.

December, 1983

B.S. Thermal and Environmental Engineering
Southern Illinois University at Carbondale

June, 1990

Professional Engineer
State of Illinois License

August, 2002

M.S. Civil Engineering/ Environmental Engineering
Southern Illinois University at Carbondale

October 1, 1984 –
July 1, 1992

Illinois EPA Mine Pollution Control Program
Environmental Protection Engineer I - IV
Duties included reviewing permit applications for compliance with the Illinois Environmental Protection Act and rules adopted thereunder, reviewing applications for compliance with the Surface Mining Control and Reclamation Act under an inter-agency agreement, reviewing the regulations and proposing changes, field investigation of coal mines in the northern half of Illinois for compliance with NPDES permits, and, starting in 1990, Permit Section Manager with the responsibility of assuring that permits for coal mines throughout the state were issued in compliance with all rules and regulations and that reviews under the inter-agency agreement were in accordance with the agreement.

July 1, 1992 -
November 1, 1994

Illinois EPA Bureau of Land Permit Section
Assistant Solid Waste Unit Manager
Duties included reviewing permit applications for solid waste management sites for compliance with the Illinois Environmental Protection Act and rules adopted thereunder, reviewing the regulations and proposing changes, preparation of the application to USEPA to demonstrate compliance with RCRA Subtitle D, supervising a Sub-Unit of engineers and filling in for the Unit Manager when absent.

November 1, 1994 –
February 1, 1999

Illinois EPA Bureau of Land Permit Section
Solid Waste Unit Manager
With the responsibility of assuring that permits for non-hazardous waste landfills, transfer stations and compost facilities throughout the state were issued in compliance with all rules and regulations. Duties included supervising a Unit of engineers that reviewed permit applications for solid waste management sites to determine compliance with the Illinois Environmental Protection Act and rules adopted thereunder, reviewing the regulations and proposing changes.

February 1, 1999 –
Present

Illinois EPA Bureau of Land Permit Section
Manager
With the responsibility of issuing permits for waste management facilities throughout the state in compliance with all rules and regulations adopted under the Illinois Environmental Protection Act. Duties include managing 7 units of engineers and geologists that review permit applications for solid waste management sites to determine compliance with the Illinois Environmental Protection Act and rules adopted thereunder, reviewing the regulations and proposing changes.

Standard Specifications for Road and Bridge Construction

Adopted January 1, 2002



Illinois Department of Transportation



Illinois Department of Transportation

Departmental Policies

D&E-2
March 1, 2001

STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION

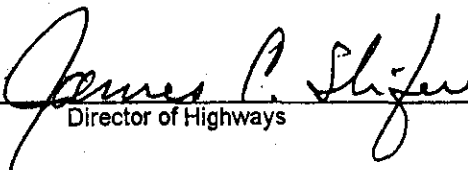
1. **POLICY.** Road and bridge construction shall be performed according to the standards set forth in this Policy.
2. **PURPOSE.** The purpose of this Policy is to provide for the publication of a book prescribing the Standard Specifications for Road and Bridge Construction.
3. **GUIDELINES FOR IMPLEMENTATION.** The book outlines the general requirements and covenants applicable to all highway construction improvements as well as provisions relating to materials, equipment, and construction requirements for individual items of work (as defined in the book) on road and bridge construction projects awarded by the Department.

The book provides detailed requirements on such subjects as:

- a. General Requirements and Covenants
 - b. Earthwork, Landscaping, Erosion Control
 - c. Subgrades, Subbases, and Base Courses
 - d. Surface Courses, Pavements, Rehabilitation, and Shoulders
 - e. Structures
 - f. Incidental Construction
 - g. Work Zone Traffic Control, Signing, and Pavement Marking
 - h. Electrical Requirements
 - i. Materials
 - j. Equipment
4. **RESPONSIBILITIES.** The Division of Highways and its Districts shall implement the standards published in the book accompanying this Policy.
 5. **ACCESSIBILITY.** Copies of this Policy may be obtained from the Bureau of Design and Environment in the Harry R. Hanley Building. This Policy may be examined in the Hanley Building Library and in each of the nine District Highway Offices. Copies of this book may be obtained from the Bureau of Highway Administration, in the Hanley Building.

CLOSING NOTICE. Supersedes: Departmental Policy DES-6, Standard Specifications for Road and Bridge Construction.

Approved:

 James C. Shifer March 23 2001
Director of Highways Date

construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

101.10 Contract Bond. The approved form of security furnished by the Contractor and his/her surety as a guaranty that the Contractor will execute the work according to the terms of the contract.

101.11 Contract Time. The number of working days or calendar days or combination allowed for completion of the contract, including authorized time extensions.

When a calendar date of completion is shown in the proposal, the contract shall be completed on or before that date.

101.12 Contractor. The individual, firm, partnership, joint venture, or corporation contracting with the Department for performance of prescribed work.

101.13 Culvert. A drainage structure extending across and beneath a traveled way and having a tubular or box type cross section.

101.14 Department. The Department of Transportation of the State of Illinois with principal offices of business at Springfield, when the State is the awarding authority.

The County Board, when a County is the awarding authority.

The Council, the City Council, or the President and Board of Trustees, when a city, village, or town is the awarding authority.

The County or Municipality and the Illinois Department of Transportation when the Illinois Department of Transportation is the awarding agency and the County or Municipality is supervising construction.

101.15 District Engineer. The Engineer in complete charge of the district in which the work under contract is located.

101.16 Engineer. The Director of Highways of the Department of Transportation of the State of Illinois; or authorized representative limited by the particular duties entrusted to that person, when the State is the awarding authority.

The County Superintendent of Highways, when Cook County is the awarding authority, and the County Engineer, when any other county is the awarding authority. The County Superintendent of Highways, when the project is in Cook County, the County Engineer when the project is in any other county and the Illinois Department of Transportation when the Illinois Department of Transportation is the awarding authority and the County is supervising construction.

The City Engineer or Engineer employed by the municipality, when a city, village or town is the awarding agency. The City Engineer or Engineer employed by the municipality, and the Illinois Department of Transportation when the Illinois Department of Transportation is the awarding agency and a city, village or town is supervising construction.

in an acceptable manner. If the Contractor fails to do so, the Engineer may, after the expiration of a period of 48 hours after giving the Contractor notice in writing, proceed to repair, rebuild, or otherwise restore such property as may be deemed necessary, and the cost thereof shall be deducted from any compensation due, or which may become due, the Contractor under this or any other contract between the Department and the Contractor.

The Contractor shall remove all mailboxes within the limits of construction which interfere with construction operations and shall erect them at temporary locations.

As soon as construction operations permit, the Contractor shall set the mailboxes at their permanent locations. This work shall be performed as directed by the Engineer. The Contractor shall replace, at the Contractor's expense, any mailbox or post which has been damaged by the Contractor's operations.

The cost of all materials required and all labor necessary to comply with the above Provisions will not be paid for separately, but shall be considered as included in the unit bid prices of the contract, and no additional compensation will be allowed.

107.21 Protection and Preservation of Aboriginal Records and Antiquities. The Contractor shall take reasonable precautions to avoid disturbing aboriginal records and antiquities of archaeological, paleontological, or historical significance. No objects of this nature shall be disturbed without written permission of the Engineer. When such objects are uncovered unexpectedly, the Contractor shall notify the Engineer of their presence and shall not disturb them until written permission to do so is granted.

If it is determined by the Engineer, in consultation with the Illinois Historic Preservation Agency, that exploration or excavation of aboriginal records or antiquities on land owned or leased by the State is necessary to avoid loss, the Contractor shall cooperate in the salvage work attendant to preservation. If the Engineer determines the salvage work will delay the Contractor's work, an appropriate extension of contract time will be granted.

107.22 Environmental Review of Proposed Borrow Areas, Use Areas, and/or Waste Areas. Proposed borrow areas, use areas (including, but not limited to temporary access roads, detours, and runarounds, plant sites and staging and storage areas), and/or waste areas are to be designated by the Contractor to the Engineer and approved prior to their use. A location map showing the size limits of the proposed borrow area, use area, and/or waste area shall be submitted to the Engineer for approval along with an agreement from the property owner granting the Department permission to conduct cultural and biological resource reconnaissance surveys of the site for archaeological resources, threatened or endangered species or their designated essential habitat, wetlands, prairies, and savannahs. The Engineer will initiate cultural and biological resource reconnaissance surveys of the site, as necessary, at no cost to the Contractor. The Engineer will advise the Contractor of the expected time required to initiate and complete all surveys and will allow the Contractor the opportunity to choose another site prior to initiation. If the proposed area is within 45 m (150 ft) of the highway right of way, a topographic map of the proposed site will be required as specified in Article 204.02.

- (a) **Archaeological Resources.** If potentially significant archaeological resources are identified, the Contractor shall have the option of choosing another site.

Art. 107.22 Legal Regulations and Responsibility To Public

or paying for additional archaeological testing. If the Contractor chooses the option of additional testing, the Engineer will obtain a time and cost proposal for the Contractor's approval prior to the testing work being done. The archaeological testing may result in three possible conclusions:

- (1) Results of the tests show that no further archaeological work is warranted and the site is approved, or
- (2) Results of the test indicate that salvage work is warranted and the Contractor shall have the option of selecting another location or paying for the salvage operations, or
- (3) Results of the tests indicate the site is of National Register quality and the site cannot be approved.

If the area is approved as a borrow area, use area, and/or waste area, the Contractor shall obtain as part of the agreement with the property owner, the release of ownership of any artifacts found on the site. The agreement shall also provide that such artifacts will become the property of the State of Illinois.

The Contractor shall furnish copies of the proposed and final agreement to the Engineer for approval.

In the event hydraulic fill or commercial material from rock quarries, waste material, etc., is to be used, a reconnaissance survey for archaeological resources will be conducted only if disturbance of previously undisturbed areas is required to provide such material.

- (b) **Wetlands.** If the results of the biological resource reconnaissance survey indicate wetlands may be adversely affected by the proposed borrow area, use area, and/or waste area, the Engineer shall not approve the area for use unless the Contractor provides documentation of concurrence from the Illinois Department of Conservation in the following:
 - (1) There is no feasible alternative to the proposed action which adversely affects wetlands, and
 - (2) The proposal for use of the area includes all practicable measures to minimize adverse impacts to the wetland and to provide appropriate compensation for any unavoidable adverse impacts. In addition, when a proposed borrow area, use area and/or waste area may involve the discharge of material into wetlands, the Engineer shall not approve the area for use unless the Contractor provides evidence of necessary permit approval from the U. S. Army Corps of Engineers.
- (c) **Threatened and Endangered Species.** If the results of the biological resource reconnaissance survey indicate threatened or endangered species or their designated essential habitat may be affected by the proposed borrow area, use area, and/or waste area, the Engineer shall not approve the area for use unless the Contractor provides evidence of compliance with the consultation requirements of the Illinois Endangered Species Protection Act

and has received from the Illinois Department of Conservation one of the following findings:

- (1) The action may promote the conservation of a listed species or its essential habitat, or
- (2) The action is not likely to jeopardize a listed species or its essential habitat.

If the Department of Conservation advises the proposed action may be likely to jeopardize a listed species or its essential habitat, the Engineer shall not approve the site.

- (d) **Forested Areas, Prairies, and Savannahs.** If the results of the biological resource reconnaissance survey indicate that forested areas, prairies, or savannahs may be adversely affected by the proposed borrow area, use area, and/or waste area, the Engineer will recommend the Contractor minimize harm to such areas by selecting alternative sites, where practical, and by providing replacement plantings of trees or prairie vegetation, as appropriate. Such plantings may be recommended for the borrow area, use area, and/or waste area, subject to the approval of the property owner, or on highway right of way.

107.23 Protection of Streams, Lakes, Reservoirs, Natural Areas, Wetlands, Prairie Areas, Savannahs, and Endangered and Threatened Species. The Contractor shall take sufficient precautions to prevent pollution of streams, lakes, reservoirs, and wetlands with fuels, oils, bitumens, calcium chloride, or other harmful materials. The Contractor shall conduct and schedule operations so as to avoid or minimize siltation of streams, lakes, reservoirs, and wetlands. Where, in the opinion of the Engineer, the land has a high potential for erosion, the areas exposed by construction operations at any one time will be subject to approval by the Engineer, and the duration of the exposure of the uncompleted construction to the elements shall be as short as practicable. Erosion control features shall be constructed concurrently with other work as directed by the Engineer.

The Contractor shall not disturb designated natural areas, wetlands, identified locations where State or Federal-listed endangered or threatened species are known to occur, or areas that have been designated as essential habitat for such species, or prairie or Savannah areas where the Department has made commitments for protection of these locations/areas. Also, if previously unidentified natural areas, wetlands, prairies, savannahs, or areas or locations suspected of containing protected species are identified during construction, the Contractor shall not disturb them unless written permission to do so is granted by the Engineer.

If the Engineer determines measures are necessary to mitigate project effects on natural areas, wetlands, prairies, savannahs, protected species, or essential habitat located on land owned or leased by the State, the Contractor shall cooperate in accomplishing these measures. If the Engineer determines such mitigation work for natural areas, wetlands, prairies, savannahs, or endangered and threatened species concerns will delay the Contractor's work, an appropriate extension of contract time will be granted.

202.01 Description. This work shall consist of the excavation and transportation of suitable excavated material to embankment locations throughout the limits of the contract or the excavation, transportation, and disposal of excavated material. This work does not include excavation for structures or channel excavation.

CONSTRUCTION REQUIREMENTS

202.02 Clearing, Tree Removal, and Protection of Existing Plant Material. Prior to starting excavation operations in any area, all clearing, tree removal and protection of existing plant material in that area shall be performed according to Section 201.

202.03 Removal and Disposal of Surplus, Unstable, and Unsuitable Materials and Organic Waste. Suitable excavated materials shall not be wasted without permission of the Engineer. The Contractor shall dispose of all surplus, unstable and unsuitable materials and organic waste, in such a manner that public or private property will not be damaged or endangered.

Suitable earth, stones and boulders naturally occurring within the right of way may be placed in fills or embankments in layers and compacted according to Section 205. Broken concrete without protruding metal bars, bricks, rock stone, reclaimed asphalt pavement with no expansive aggregate or uncontaminated dirt and sand generated from construction or demolition activities may be used in embankment or in fill. If used in fills or embankments, these materials shall be placed and compacted to the satisfaction of the Engineer; shall be buried under a minimum of 600 mm (2 ft) of earth cover (except when the materials include only uncontaminated dirt); and shall not create an unsightly appearance or detract from the natural topographic features of an area. Broken concrete without protruding metal bars, bricks, rock, or stone may be used as riprap as approved by the Engineer. If the materials are used for fill in locations within the right of way but outside project construction limits, the Contractor must specify to the Engineer, in writing, how the landscape restoration of the fill areas will be accomplished. Placement of fill in such areas shall not commence until the Contractor's landscape restoration plan is approved by the Engineer.

Aside from the materials listed above, all other construction and demolition debris or waste shall be disposed of in a licensed landfill, recycled, reused, or otherwise disposed of as allowed by State or Federal solid waste disposal laws and regulations and solid waste determinations of the IEPA.

A permit shall be obtained from IEPA and made available to the Engineer prior to open burning of organic waste (i.e., plant refuse resulting from pruning or removal of trees or shrubs) or other construction or demolition debris. Organic waste originating within the right-of-way limits may be chipped or shredded and placed as mulch around landscape plantings within the right of way when approved by the Engineer. Chipped or shredded material to be placed as mulch shall not exceed a depth of 150 mm (6 in.).

When the Contractor proposes to dispose of surplus excavated material off the right of way, the Contractor shall obtain and file with the Engineer permission in writing, from the property owner, for the use of the property for this purpose. The approval of the proposed disposal sight shall be according to Article 107.22. Any

such disposal shall not create an unsightly or objectionable appearance or detract from the natural topographic features, nor be placed at an elevation higher than that of the adjacent roadway without permission from the Engineer.

All unstable and unsuitable material, including excavated material from sewer trenches or other underground construction, shall be excavated or removed and replaced with material acceptable to the Engineer. Unstable and unsuitable material shall not be used in embankments. If unsuitable material is present at or below the finished grade, it shall be removed and replaced with subbase granular material Type A or Type B, according to Section 311. Unsuitable material shall be placed as directed by the Engineer within the right of way or disposed of by the Contractor outside of the right of way.

202.04 Classification. Excavation material will be classified by the Engineer. All excavation will be classified as Earth Excavation, except those materials provided for in Rock Excavation, Excavation for Structures, Channel Excavation, and Rock Excavation in Channel.

Rock Excavation shall consist of the excavation from the roadway of boulders 0.5 cu m (1/2 cu yd) in volume or greater and all rock in ledges, bedded deposits and conglomerate deposits exhibiting the physical characteristics and difficulty of rock removal as determined by the Engineer.

Rock shall be excavated to a minimum of 75 mm (3 in.) below the subgrade of the proposed pavement, surface course or base course and backfilled with subbase granular material Type A or Type B to the elevations shown on the plans. The surface of the rock excavation shall be free from projecting points, ribs, crevices or undrained pockets. The method of rock removal shall be the option of the Contractor. However, excessive blasting or overshooting will not be permitted.

202.05 Drainage. The excavation shall be maintained so that positive drainage is provided at all times. Ditches and waterways shall be constructed and maintained to the lines, grades and cross sections shown on the plans. The Contractor shall also excavate a ditch at the toe of slope for fills and at the top of slope for cuts at locations designated by the Engineer at the earliest opportunity during construction to control runoff from the embankment or cut section. Material excavated from ditches at the top of slope of cuts shall be placed in a windrow between the ditch and top of slope.

If during the prosecution of the work, it is necessary to interrupt existing sewer or under drainage to complete contract requirements, temporary drainage facilities shall be provided until the permanent drainage work has been completed. The Contractor shall preserve and protect all existing sewer and drainage facilities within the limits of the contract. The Contractor shall be responsible for all cost associated with the repair of sewer or drainage facilities damaged due to negligence on the Contractor's part.

202.06 Excavation for Base Course Widening and Bituminous Shoulders for Pavement Resurfacing. Excavation for the construction of base course widening and for bituminous shoulders when the existing pavement is not to be widened shall be performed according to the details shown on the plans or as directed by the Engineer. The excavated material shall be used to backfill the

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 17 2006

IN THE MATTER OF:)
)
CLEAN CONSTRUCTION OR DEMOLITION)
DEBRIS FILL OPERATIONS)
(35 ILL. ADM. CODE PART 1100))
)

R06-19
(Rulemaking – Land)
STATE OF ILLINOIS
Pollution Control Board

TESTIMONY OF THOMAS W. HUBBARD IN SUPPORT OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL TO ADOPT 35 ILL. ADM. CODE SECTION 1100

My name is Thomas W. Hubbard. I am an environmental engineer in the Solid Waste Unit of the Permit Section in the Bureau of Land of the Illinois Environmental Protection Agency. I have been at my current position since December 1999. I receive a B.S. in Civil Engineering in 1991 from Bradley University in Peoria and a M.S. in Environmental Engineering in 1993 from Virginia Polytechnic Institute and State University (Virginia Tech) in Blacksburg, Virginia. My resume is attached. Today I will be testifying in support of new regulations proposed for 35 Ill. Adm. Code Section 1100, specifically Sections 1100.104, 1100.210, and 1100.211.

Section 1100.104: Incorporation by Reference

Test Methods for Evaluating Solid Waste, Physical/Chemical methods, EPA Publication SW-846 (SW-846) was referenced for Section 1100.205: Load Checking. Section 1100.205 requires using a PID, or FID, or other device approved by the Illinois EPA. To insure proper setup, calibration, and operation of the device(s), SW-846 is referenced, specifically the quality control section. SW-846 is the most commonly used method for

environmental sampling, is commonly used throughout the Board rules, and is generally regarded as the standard minimum requirement for ensuring protection of human health and the environment.

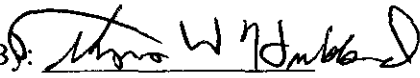
Section 1100.210: Recordkeeping Requirements

The recordkeeping requirements language is consistent with language throughout the Board regulations relating to BOL permits and is consistent with language included in other BOL permits. The opening paragraph informs the owner or operator of his responsible for maintaining records at a designated location and of the Agency's right to inspect and copy the records during normal business hours. Subsection (a) is required to allow Agency inspectors to confirm or deny questions about the operation and design of the facility without having to either carry all the permits, applications, and annual reports to the site or return to their office. Subsection (b) is required so that Agency inspectors can confirm that the owner or operator is conducting load checking inspections and training in accordance with Section 1100.205 of Part 1100.

Section 1100.211: Annual Reports

The annual report requirement allows the Agency to track the progress of each facility and determine the active life and estimated closure dates of each facility. Subsection (a) is required to calculate the amount of fill the facility added in the previous year and to determine the percentage of contaminated loads that were rejected by the facility. The information required by subsection (b) will be used by the Agency to calculate the estimated active life of the facility. Subsection (c) is required to alert the Agency to any

changes in the facility's operation. Subsection (d) is required for all applications and annual reports submitted to the Agency.

B. 

Thomas W. Hubbard

Date: 12 Jan 2005

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Education

Bradley University, Peoria, Illinois – May 1991
Bachelor of Science in Civil Engineering

Virginia Polytechnic Institute and State University (Virginia Tech),
Blacksburg, Virginia – July 1993
Master of Science in Environmental Engineering

Employment

Illinois Environmental Protection Agency, Springfield, Illinois – 1999 to present
Environmental Protection Engineer

As permit engineer in the Permit Section, reviewed non-hazardous waste management permit applications for compliance with the Illinois Environmental Protection Act and Illinois regulations.

- Attended inspections of non-hazardous waste management facilities in Illinois.
- Attended public hearings concerning the issuance of landfill permits.
- Responded to oral and written inquiries regarding waste management regulations in Illinois.
- Completed continuing education courses related to waste management.
- Assisted with the training of new employees.
- Managed and updated stored letters.

Virginia Polytechnic Institute and State University, Blacksburg, Virginia –
1991-1993

Graduate Assistant

Conducted research on herbicide and pesticide transport from the groundwater of the Eastern Shore of Virginia into the Chesapeake Bay, worked as a teaching assistant for one semester, and a laboratory assistant while pursuing a master's degree.

Special Skills

Since January 2004, I have been a Licensed Professional Engineer in the State of Illinois.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN 17 2006

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
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CLEAN CONSTRUCTION OR DEMOLITION) R06-19
DEBRIS FILL OPERATIONS) (Rulemaking –Land)
(35 ILL. ADM. CODE PART 1100))
)

TESTIMONY OF PAUL M. PURSEGLOVE IN SUPPORT OF
THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL TO ADOPT
35 ILL.ADM. CODE 1100

My name is Paul M. Purseglove. I am the Field Operations Section Manager within the Bureau of Land of the Illinois Environmental Protection Agency. I have worked for the Illinois EPA for over 25 years and have been in my current position since November 1998. In 1980 I received a B.S. in Environmental Health from Illinois State University. Today, I will be testifying in support of new regulations proposed for 35 Ill. Adm. Code Part 1100, specifically Section 1100.205 which requires the checking of loads that are being delivered for disposal at CCDD disposal sites.

Subpart B: Standards

Section 1100.205 – Load Checking

Owners and Operators must train staff, maintain field analytical equipment and conduct a load checking procedure so as to identify and prevent the disposal of any non-CCDD material into their mine, quarry or excavation. A designated employee must visually inspect every load before it is accepted and test the material being received with either a photo ionization detector

(PID) or a flame ionization detector (FID). PID's and FID's will detect the presence, in low concentration, of volatile organic contamination. Other instruments may be used by the operator but only after written approval by the Illinois EPA. If the chosen instrument indicates the presence of volatile organic compounds the load must be rejected, as it is contaminated and therefore not CCDD. Any instrument reading above zero indicates contamination is present and must result in the rejection of the load. Since PIDs can be equipped with a variety of detection lamps the PID must have a detector lamp of at least 10.6 eV (electron volts). All instruments must be maintained and calibrated as specified by the manufacturer and also following the procedures specified in SW-846 which are the "Test Methods of Evaluating Solid Waste". Cameras or other devices may also be used by the operator to record the contents of loads being received for disposal.

In addition to the routine load checking the operator must conduct at least one, random, inspection each operating day of a load as it is being unloaded. In an area, separate from the designated unloading point of the trucks coming in for the day, the driver must unload and spread out the contents of the truck and that material must be visually inspected and tested with the PID or FID. This random inspection will allow the operator to see not only what is on the top of a load being received but also inspect the complete contents.

The operator must document both the routine and random load inspections that are conducted. The date, time, name of the hauling company or the name of the driver, the license plate number or the unique company truck number, the source of the CCDD and the name of the employee conducting the inspection must be documented. The results of the instrument testing must also be documented including the type of instrument used, whether the load was accepted or rejected and if rejected the reason. Documentation must be retained for a minimum of three

years and be available to the Illinois EPA upon request.

If a load is rejected the operator must present the driver a written notice that indicates there is non-CCDD material in the load and that the material must go to an Illinois EPA permitted landfill for disposal or to a recycling facility. All rejected loads must be documented and the information made available to the Illinois EPA upon request. Ultimately the operator is responsible for proper off site disposal of non-CCDD materials that are inadvertently received.

By:


Paul M. Purseglove

Date:

1/12/06

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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IN THE MATTER OF:)
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DEBRIS FILL OPERATIONS)
(35 ILL. ADM. CODE PART 1100))
)

STATE OF ILLINOIS
Pollution Control Board

R06-19
(Rulemaking --Land)

TESTIMONY OF CHRISTIAN J. LIEBMAN IN SUPPORT OF
THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL TO ADOPT
35 ILL.ADM. CODE 1100

My name is Christian J. Liebman. I am the Manager of the Solid Waste Unit in the Permit Section within the Bureau of Land of the Illinois Environmental Protection Agency. I have been in my current position since February 1999. From June 1985, until I assumed my current position, I was a permit reviewer in the unit I now manage. In 1984, I received a B.S. in Geological Engineering from University of Missouri at Rolla and in May 2002, I received an M.S. in Civil Engineering from Southern Illinois University at Carbondale. I am licensed in the State of Illinois as both a Professional Engineer and a Professional Geologist. My resume is attached. Today, I will be testifying in support of new regulations proposed for 35 Ill. Adm. Code Part 1100, specifically Sections 1100.103, 1100.202 - 204, 1100.206 - 209 and 1100.304 - 310.

Subpart A: General

Section 1100.103 - Definitions.

The language that introduces the definitions is typical of the wording generally used for this purpose.

Below each term defined in Section 1100.103 is reiterated in quotation marks and the purpose or origin of the definition is briefly described:

“10-year, 24-hour precipitation event” – This is the standard definition of a storm event of this magnitude.

“100-year, 24-hour precipitation event – This is the standard definition of a storm event of this magnitude.

“Act” – This term provides a reference to the Environmental Protection Act (“Act”).

“Agency” – This is identical to the statutory definition given in Section 3.105 of the Act.

“Applicant” –A term commonly used throughout the Board regulations that when used throughout Part 1100 is meant to designate the person submitting an application to the Agency for a permit for a CCDD fill operation.

“Board” -- This is identical to the statutory definition given in Section 3.130 of the Act.

“CCDD” – This is an abbreviation for clean construction or demolition debris.

“CCDD fill operation” –This term is taken from Section 22.51 of the Act and refers to using CCDD as fill material in a current or former mine, quarry or excavation.

“Clean construction or demolition debris” – This is identical to the statutory definition given in Section 3.160(b) of the Act.

“Documentation” – This definition is consistent with the definition of this term in other Board regulations relating to land permits.

“Facility” – This definition is consistent with the definition of this term in other Board regulations relating to land permits.

“Filled area” –This term is used to refer to an area within a unit where CCDD has been placed as fill.

“Malodor” – This definition is adapted from the definition of “air pollution” in Section 3.115 of the Act.

“National Pollutant Discharge Elimination System” or “NPDES” – This is consistent with the definition of this term in other Board regulations relating to land permits.

“NPDES permit” – This is consistent with the definition of this term in other Board regulations relating to land permits.

“Operator” -- This is identical to the statutory definition given in Section 22.51(e)(1) of the Act, as amended by SB0067 passed by the General Assembly this Fall 2005.

“Owner” -- This is identical to the statutory definition given in Section 22.51(e)(2) of the Act, as amended by SB0067 passed by the General Assembly this Fall 2005.

“Person” -- This is identical to the statutory definition given in Section 3.315 of the Act.

“Professional engineer” -- This is identical to the statutory definition given in Subsection 4(m) of the Professional Engineering Practice Act of 1989.

“Runoff” -- This is consistent with the definition of this term in other Board regulations relating to land permits.

“Salvaging” – This definition is consistent with the definition of this term in other Board regulations relating to land permits.

"Setback zone" -- This is identical to the statutory definition given in Section 3.450 of the Act.

“Unit” – This definition is consistent with the definition of this term in other Board regulations relating to land permits.

“Working face” – This definition is consistent with the definition of this term in other Board regulations relating to land permits.

Subpart B: Standards

Section 1100.202 – Surface Water Drainage.

To reduce problems with erosion, surface water contamination and flooding in and around CCDD fill operations, Section 1100.202 provides standards for surface water control structures (e.g., ditches, berms, basins and impoundments). Subsection 1100.202(a) addresses runoff from filled areas and specifies that sites may need to apply for an NPDES permit with the Bureau of Water, in addition to a permit under this Part 1100. Further, Subsection 1100.202(a)

specifies that surface water control structures must be operated until final cover has been applied and a surface layer that protects against erosion is in place. Subsection 1100.202(b) addresses runoff from unfilled areas at CCDD fill operations, by providing performance-based standards for the design and operation of the structures used to control runoff from these areas.

Section 1100.203 – Annual Facility Map.

Section 1100.203 requires the owner or operator to submit a map of the facility to the Agency on an annual basis by the date given in the facility's permit. The map's minimum scale and what must be shown on it are specified. The purpose of the map is to record the horizontal extent of filled areas with respect to all permanent structures and roads within the facility as well as all devices to control access to the facility.

Section 1100.204 – Operating Standards. Sections 1100.204(a-h) provide operating standards intended to insure that the filling operations offer safe work environments, comply with the requirements of the Act and regulations, and do not create nuisances for the public.

Section 1100.206 – Salvaging. Section 1100.206 conditionally sanctions salvaging at CCDD filling operations. This language is consistent with language on salvaging operations in other Board regulations relating to land permits.

Section 1100.207 – Boundary Control. To prevent fly dumping, Section 1100.207(a) requires unauthorized vehicular access to be restricted. To inform drivers that only CCDD is accepted for fill at the site before they reach the fill face, Section 1100.207(b) requires signage at

the entrance(s).

Section 1100.208 – Closure. Subsection 1100.208(a)(1)(A) defines completion of filling as 30 days after the final load of CCDD is received. However, Subsection 1100.208(a)(1)(B) allows the owner or operator to demonstrate the ability to remain open until one year after the most recent receipt of CCDD. Further, Subsection 1100.208(a)(2) allows extensions beyond one year if the owner or operator demonstrates that the facility has additional capacity and all steps necessary to prevent threats to human health and the environment have been taken and will continue to be taken. Such additional extensions would be granted through the permit process.

Subsection 1100.208(b)(1) reiterates the statutory requirement of Section 3.160(b)(1) of the Act that CCDD must be covered within 30 days after completion of filling. This subsection also prescribes a minimum thickness of one foot when CCDD is covered with soil rather than a road or structure. Finally, Subsection 1100.208(b)(1) specifies that the top surface of the cover must be resistant to erosion and (b)(2) provides standards for the final slope and contours as well as for the vegetation used when CCDD is covered with soil.

Section 1100.209 – Postclosure Maintenance. To allow time to determine the success of the erosion prevention methods used at the facility, Section 1100.209 requires a one year postclosure maintenance period. Subsections 1100.209(a) and (b) provide standards for postclosure maintenance care. The postclosure maintenance period may be shortened if the facility can demonstrate that, due to postclosure operations, erosion will not be an issue and any disturbance of the final cover will not increase the potential threat to human health or the environment.

Subpart C: Permit Information

Section 1100.304 – Site Location Map. Section 1100.304 requires permit applications for CCDD fill operations to include a site location map. This map will give the Agency a sense of the facility's surroundings, including its proximity to surface water and groundwater resources. Safeguarding these resources is one of the Agency's primary objectives.

This map will utilize the most recent United States Geological Survey (USGS) quadrangle of the area (from the 7 ½ minute series) as a base map and will show the site and facility boundaries with respect to the surrounding features and structures. In addition, this map will show all potable water supply wells and their setback zones within 3300 feet of the facility. Identification of these wells and their setbacks is necessary to demonstrate that the CCDD fill operation satisfies the condition in the statutory definition of CCDD, contained in Subsection 3.160(b)(i) of the Act, which stipulates that CCDD is not considered waste as long as it is used as fill material outside of a setback zone.

The site location map will also show any wellhead protection areas and any sole source aquifer designated by the United States Environmental Protection Agency (U.S. EPA) pursuant to Section 1424(e) of the Safe Water Drinking Act (42 USC 300f). This requirement should not be overly burdensome or restrictive because, at the present time, the U.S. EPA has not given such designation to any wellhead protection area or aquifer in Illinois. However, since the U.S. EPA may do so in the future, the Agency is requiring those wellhead protection areas and aquifers to be identified on the site location map

Section 1100.305 – Facility Plan Maps. Section 1100.305 requires permit applications for CCDD fill operations to contain facility plan maps. These are larger scale contour maps (at least 1 inch = 200 feet) showing the details of the facility, including the horizontal and vertical limits of fill. These maps are required to allow an Agency determination of the owner or operator's compliance with Part 1100. The facility plan maps are updated each year pursuant to Section 1100.203.

Section 1100.306 – Narrative Description of the Facility. Section 1100.306 requires permit applications for CCDD fill operations to contain a written description of how the facility will be operated. This narrative description is required to allow an Agency determination of the owner or operator's compliance with Part 1100.

Section 1100.307 – Proof of Property Ownership and Certification. To provide proof that the entity or entities named as owner in the permit application control the real estate upon which the facility is located, Section 1100.307 requires permit applications for CCDD fill operations to include an ownership certification.

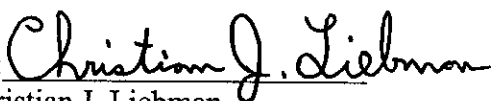
Section 1100.307 also requires the application to include certifications regarding the provisions of Sections 39(i) and 39(i-5) of the Act. Section 39(i) of the Illinois Environmental Protection Act requires the Agency to evaluate the prior experience of owners and operators prior to issuing a permit for a CCDD fill operation. Section 39(i-5) requires the Agency to conduct an evaluation into prior contamination of the site if certain ownership transfers have occurred. The Agency provides certification forms regarding this information and requires the certifications to be included with the permit application.

Finally, Section 1100.307 requires certification by the owner and the operator that the Agency will be notified within seven days after any change in ownership.

Section 1100.308 – Surface Water Control. To demonstrate that the facility will be in compliance with the standards of Section 1100.202, Section 1100.308 requires permit applications for CCDD fill operations to contain a copy of an NPDES permit and a map showing the surface water control structures at the facility.

Section 1100.309 – Closure Plans. To demonstrate that the facility will comply with the standards of Section 1100.208, Section 1100.309 requires permit applications for CCDD fill operations to contain written closure plans

Section 1100.310 – Postclosure Maintenance Plan. To demonstrate that the facility will comply with the standards of Section 1100.209, Section 1100.310 requires permit applications for CCDD fill operations to contain written postclosure maintenance plans.

By: 
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Date: 1-12-2006

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EDUCATION

M.S., May 2002, Civil Engineering from Southern Illinois University-Carbondale, Carbondale, IL, Major: Civil Engineering

B.S., May 1984, University of Missouri - Rolla, Rolla, MO, Major: Geological Engineering

WORK EXPERIENCE

02/99 -- Present *Solid Waste Unit Manager in the Illinois Environmental Protection Agency's Bureau of Land, Division of Land Pollution Control, Permit Section. The job consists of supervising the 9 engineers who are responsible for reviewing the permit applications for all the solid waste landfills in the State of Illinois, subject to the permit process. The primary job objective of this position is to ensure that these permit applications are given consistent, high-quality reviews in a timely manner.*

06/85 -- 02/99 *Permit Reviewer in the Illinois Environmental Protection Agency's Bureau of Land, Division of Land Pollution Control, Permit Section, advancing from an Environmental Protection Engineer I to Environmental Protection Engineer III. The job entailed reviewing permit applications for solid waste landfills, transfer stations and waste composting facilities, comparing the proposals made in the applications to the regulatory and statutory requirements and then drafting preliminary responses (either permits with conditions or denials) for management approval.*

PROFESSIONAL LICENSES

Licensed Professional Engineer in the State of Illinois (License No. 062-049263).

Licensed Professional Geologist in the State of Illinois (License No. 196-000989).

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached PRE-FILED
TESTIMONY OF JOYCE MUNIE, PAUL M. PURSEGLOVE, CHRISTIAN J. LIEBMAN and
THOMAS HUBBARD, ERRATA SHEET #1, and SUPPLEMENTAL STATEMENT upon the
persons to whom they are directed, by placing a copy of each in an envelope addressed to:

Dorothy Gunn, Clerk,
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(Express Mail)

General Counsel
Office of Legal Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

Matt Dunn
Environmental Bureau Chief
Office of the Attorney General
James R. Thompson Center
100 W. Randolph, 12th Floor
Chicago, Illinois 60601

Amy Antonioli
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, Illinois 60601

John Henrickson, Executive Director
Illinois Association of Aggregate Producers
1115 S. Second Street
Springfield, Illinois 62704

Tiffany Chappell
City of Chicago
Mayor's Office of Intergovernmental Affairs
121 N. LaSalle Street, City Hall - Room 406
Chicago, Illinois 60602

and mailing it by First Class Mail from Springfield, Illinois on January 12, 2006, with sufficient postage affixed.

Stephanie Flowers

SUBSCRIBED AND SWORN TO BEFORE ME

This 12th day of January, 2006.

Brenda Boehner
Notary Public

