

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

March 22, 2006

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STATE OF ILLINOIS
Pollution Control Board

Land Reclamation Services)
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)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

IEPA- 06-10
(Provisional Variance-Water)
(Extension)

Re: Extension of Emergency Provisional Variance To Allow The Pumping
Of Water From A Quarry Owned By Land Reclamation Services

Dear Mr. Rakov:

The Illinois Environmental Protection Agency (Agency) has completed review of the attached extension of emergency provisional variance request submitted by Land Reclamation Services (LRS) on March 19, 2006. LRS has requested an extension of the emergency provisional variance granted on February 3, 2006, to allow the continuation of pumping of water from a quarry to Sugar Run Creek to prevent groundwater contamination, and electrical and safety hazards.

Background

LRS owns and operates a quarry located at 1127 South Chicago Street, Joliet, Illinois. Reclamation of this quarry consists of filling the quarry with clean fill materials. These materials can include concrete, brick, clean dirt and clay generated from general construction and demolition activities. The quarry is located at the outskirts of Joliet; the quarry's location and the fact that it conducts operations in a deep, multi-acre area ensure that its operations have a minimal impact on the surrounding community.

Because the quarry is well below the water table, water flows into the quarry through rock strata that forms its walls. Water from Sugar Run Creek, which is immediately adjacent to the quarry, also seeps through the quarry walls, and precipitation necessarily collects in the quarry as well. The quarry contains a retention basin that normally holds water runoff, but recent conditions caused the basin to overflow.

When LRS submitted its request for a provisional variance on February 2, 2006, levels of water had accumulated to more than forty feet deep in areas that were formerly dry. This accumulation of water had risen dangerously close to several 480-volt transformers and was close to inundating a uncapped well, which could have resulted in contamination of groundwater. In addition, trucks entering and leaving the quarry were being inundated to a point that their brakes were lost, and it was necessary to remove the mud from the trucks to prevent the mud from being deposited on public roads.

Based on these emergency conditions, the Agency gave LRS verbal notification on February 3, 2006, followed by written notification on February 16, 2006, that it could pump the accumulation of water from the quarry to Sugar Run Creek. The emergency provisional variance granted on February 3, 2006, expired on March 19, 2006.

The Agency received a request for an extension of the emergency provisional variance on March 19, 2006 (Exhibit A). According to LRS, the pumping of the water from the quarry has reduced the level of the flooding in the quarry but any sudden or extensive rainfall would lead to a repeat in emergency conditions. Even when the pumping was occurring the water levels in the quarry rose during periods of rainfall.

Relief Requested

LRS requests an extension of the emergency provisional variance granted to them on February 3, 2006, to be allowed to continue the pumping of water out of the quarry on an emergency basis.

Agency Determinations

The Agency has reviewed the requested provisional variance and has concluded the following:

1. The environmental impact from the requested relief is predicted to be minimal;
2. No other reasonable alternative appears available;
3. No public water supplies will be affected;
4. No federal regulations will preclude the granting of this request; and

5. LRS will face an arbitrary and unreasonable hardship if the request is not granted.

The Agency hereby GRANTS LRS a provisional variance extension to allow them to continue pumping water from their quarry located at 1127 South Chicago Street in Joliet, Illinois, to Sugar Run Creek subject to the following conditions:

- A. The provisional variance extension shall begin March 20, 2006. LRS shall be allowed to pump for no more than any 45 days between March 20, 2006, and June 1, 2006.
- B. LRS shall immediately take action to permanently seal the uncapped well located in the quarry.
- C. The following limitations for discharges apply to this provisional variance:

Parameter	Concentration Limits		Sample Frequency	Sample Type
	30 Day Avg	Daily Max		
Flow			Daily	
Ph	Shall be in the range of 6 to 9 Units		1/daily	grab
Total Suspended	35mg/l	70mg/l	1/daily	grab
Offensive Conditions	No effluent can contain settleable solids, floating debris, visible oil , grease, scum or sludge solids, color or odor. Turbidity shall be below obviously visible levels.			

- D. LRS shall submit a weekly report to the Agency, at the address provided in F below, which provides the days pumping occurred and the results of sampling conducted on those days.
- E. LRS shall continue to investigate any alternatives to pumping the water from the quarry and shall report the findings of this investigation to the Agency within 30 days of the expiration date of this provisional variance extension.
- F. LRS shall notify Roger Callaway of the Agency by telephone at 217/782-9720 when the final pumpage of water from the quarry ceases. Written confirmation of this notice shall be sent within five days to the following address:

Illinois Environmental Protection Agency
Bureau of Water – MC #19
Attention: Roger Callaway
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

- G. LRS shall sign a Certificate of Acceptance of this provisional variance extension and forward that certificate to Roger Callaway at the address indicated above within one day of the date of this order. The certificate should take the following form:

I (We) _____, hereby accept and agree to be bound by all terms and conditions of the provisional variance extension granted by the Agency in _____ dated _____.

Petitioner

Authorized Agent

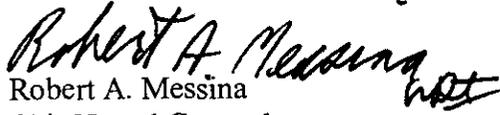
Title

Date

Conclusion

The Agency grants this provisional variance extension in accordance with its authority contained in Sections 35(b), 36(c), and 37(b) of the Environmental Protection Act (415 ILCS 5/35(b), 36(c), and 37(b) (2004)). The decision to grant this provisional variance is not intended to address compliance with any other applicable laws or regulations.

Sincerely,


Robert A. Messina
Chief Legal Counsel

cc: Marcia Willhite
Roger Callaway
Vera Herst

Exhibit A

**Land Reclamation Services, Inc.'s Written
Application For A Variance Pursuant to Chapter
35. Section 180.202 of the Illinois Administrative Code**

Land Reclamation Services hereby submits the following written application for an extension of its variance from NPDES permitting requirements pursuant to 35 Ill. Admin. Code §180.202:

- 1) **A statement identifying the regulations, Board Order, or permit requirements from which the variance is requested:**

Land Reclamation Services, Inc., ("LRS") operates a clean fill landfill in a quarry located in Joliet, Illinois. LRS currently has an application pending for an NPDES permit to permit it to pump accumulated water out of that quarry into neighboring Sugar Run Creek. LRS' application for an NPDES permit has been pending since early 2005. On August 8, 2005, the Illinois Environmental Protection Agency ("IEPA") issued a public notice stating that it had "made a tentative determination to issue an NPDES permit to [LRS] to discharge into the waters of the state and has prepared a draft permit and associated fact sheet for the above named discharger." (See Exhibit A to original application). The public notice period ended on September 7, 2005. Thereafter, a hearing was held on November 16, 2005. (See Exhibit B to original application).

LRS is informed that all paperwork necessary to the issuance of that final decision regarding whether or not to grant LRS a permit is now in the hands of IEPA's upper management. However, until such time as the IEPA issues LRS that NPDES permit, LRS requires an extension of the variance in order to permit it to pump water that is flowing into its quarry from Sugar Run Creek back into Sugar Run Creek, at a location downstream from where water is leaking in.

2) A description of the business or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by the applicant's operations:

LRS is engaged in the operation of a clean-fill landfill in a former quarry located at 1127 South Chicago Street, Joliet, Illinois, 60436. The landfill accepts clean fill for disposal in the quarry. LRS operates at the outskirts of Joliet, and the fact that its operations are conducted in a deep, multiple-acre quarry insures that its operations have a minimal impact on the surrounding community.

3) The quantity and types of materials used in the process or activity for which the variance is requested, as appropriate:

As stated above, LRS accepts clean fill materials for disposal in its quarry. These materials include concrete, brick, clean dirt and clean clay generated from general construction and demolition activity. Because the quarry is located below the water table, water flows into the quarry through rock strata that forms the walls of the quarry. Further, water from Sugar Run Creek seeps through the walls of the quarry. Precipitation also necessarily collects in the quarry.

4) The quantity, types and nature of materials or emissions to be discharged, deposited or emitted under the variance, and the identification of the receiving waterway or land, or the closest receiving Class A and Class B land use, as appropriate:

LRS has been discharging water that has accumulated in the quarry as the result of seepage from Sugar Run Creek and other sources including general precipitation. The extent of the water being discharged may vary depending upon the extent of local precipitation, including the volume of water running through Sugar Run Creek. Water testing has demonstrated that the water to be discharged is very clean. Testing to date

demonstrates that the water in question has a PH of 6.5-7, contains only 4 particles of suspended solids per million and is visually clear – well within the requirements of the draft NPDES permit for the quarry prepared by the IEPA (See Exhibit A to original application). Water pumped out of the quarry will be discharged back into Sugar Run Creek – the very water source from which much of the water in question entered the quarry in the first place.

5) The quantity and types of materials in drinking water exceeding the allowable content, or other pertinent facts concerning variances from the Board's public water supply regulations;

Not Applicable. LRS does not operate a public water supply.

6) An assessment of any adverse environmental impacts which the variance may produce:

The testing that the IEPA has required LRS to conduct during the variance period does not indicate that allowing an extension to the variance will have any adverse environmental impact. Further, the IEPA, in its preliminary determination in favor of granting LRS an NPDES permit impliedly recognized that discharge of water contained in the quarry would not cause an adverse impact. (See Exhibit A to original application). Testing of the water during the variance period clearly shows that no contaminants of unacceptable levels exist in the water.

7) A statement explaining why compliance with the Act, regulations or Board Order imposes arbitrary and unreasonable hardship:

As the result of the lack of an NPDES permit allowing LRS to pump water from the quarry, water in the quarry had accumulated more than forty feet deep in areas that were formerly dry. (See Affidavit of Frank Schmidt, attached hereto). As the result of this situation, at the time LRS sought an emergency variance, water had risen

precariously close to 480 volt transformers that provide power for LRS' operations. (See Exhibit D to original application) At the time the IEPA granted LRS an emergency variance to pump, water was rising at such a rate that the transformers were on the verge of being inundated with water. (See Exhibit C to original application). This situation necessarily created a substantial risk to the safety and welfare of those in and around the quarry.

While pumping has stemmed the flow of water into the quarry, the situation remains tenuous, and sudden or extensive rainfall would lead to a repeat in the conditions that led to the original emergency variance. During the variance period water levels actually rose during pumping on occasions when rainfall occurred, and immediately thereafter as water levels in Sugar Run Creek increased. Absent an extension, the dangerous conditions which led to the emergency variance could reoccur. To wit: the transformer and well areas could flood, the operations area and offices could be flooded out, and water covering the main road providing access to the quarry, engulfing the bases of electrical poles crossing the floor of the quarry, would cause significant risk. (See Exhibit E to original application). Because the main road to the quarry was impassable due to flooding, trucks entering the quarry had been required to employ an alternate route. Those trucks were inundated with mud and water creating a hazardous situation. Absent an extension to the variance, these conditions could reoccur after only one or two days hard rain.

- 8) A description of the proposed methods to achieve compliance with the Act, regulations or Board Order, and a timetable for achieving such compliance:**

LRS' primary method of achieving compliance will necessarily be by obtaining an NPDES permit to allow it to pump water into Sugar Run Creek. As stated above, LRS' permit application seeking just such authority has been fully analyzed and awaits only a final determination by upper IEPA management.

9) A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a provisional variance:

At the time LRS sought a variance there were no available alternate means of achieving compliance. LRS had repeatedly pumped water from one area of the quarry to another in order to delay the need to pump water from the quarry, but eventually water accumulated to such a degree that it was no longer possible to effectively shift water from one location to another. Accordingly, LRS sought a variance in order to avoid violating the law. Pumping from one area to another is not a viable alternative to pumping into Sugar Run Creek.

10) A statement of the period, not to exceed 45 days, for which the variance is requested:

LRS requests an extension of its variance for an additional 45 days. LRS is in the process of having Turner Engineering to determine whether or not feasible alternatives exist to pumping water, but none have emerged yet. Turner Engineering has experience analyzing the hydrological properties of land in the area of the quarry and is therefore well-placed to determine what alternatives are available.

11) A statement of whether the applicant has been granted any provisional variances within the calendar year, and the terms and duration of such variances:

None.

12) A statement regarding the applicant's current permit status as related to the subject matter of the variance request:

As stated, above, LRS is currently awaiting the issuance of an NPDES permit.

LRS has been informed that the permit has been fully processed and is now awaiting the approval of upper management at the IEPA.

13) Any Board orders in effect regarding the applicant's activities and any matters currently before the Board in which the applicant is a party:

None.

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AFFIDAVIT OF FRANK SCHMIDT IN SUPPORT OF EXTENSION OF
VARIANCE

I Frank Schmidt, being first duly sworn, under oath state as follows:

I am over eighteen years of age, have personal knowledge of the facts set forth in this affidavit, and am competent to testify to those facts if called upon to do so.

I am the owner of Land Reclamation Services, Inc. ("Land Reclamation"). Land Reclamation operates a clean fill land fill operation located in a former quarry at 1127 South Chicago Street, Joliet Illinois 60436. (The "Quarry").

On February 3, 2006, the Illinois EPA granted Land Reclamation a variance to allow it to pump water from the Quarry. At that time, a creek located at the north and the northwest side of the Quarry, commonly known as Sugar Run Creek, had saturated the surrounding soil and water from the creek had begun to flow through the rock wall of the quarry, creating several waterfalls down the side of the quarry.

As the result of this influx of water from Sugar Run Creek, a water retention basin in the Quarry had begun to overflow, causing water to accumulate in previously dry areas. This situation caused the original need for the variance, and continues today.

The water flowing into the Quarry from Sugar Run Creek caused water to pool as much as three feet deep in previously dry areas in the Quarry. These areas remained threatened should additional rainfall cause Sugar Run Creek to rise above current levels. During the variance period, water levels have risen during periods of rain, and thereafter as water levels in Sugar Run Creek rose.

The Quarry contains 450 volt transformers that will short out if inundated with

water, posing a serious risk to the health and safety of those working in the Quarry.

Should an extension to the variance not be granted, rainfall and seepage from the creek could easily again cause water to threaten the transformers.

The continued pumping under the variance allowed sufficient water from the Quarry to recede near where original waterlines were at the time the permit variance was sought. However, significant recent rainfall has slowed the receding of the water. During the initial pumping, rainfall caused the water levels to rise even though the pumps were on. Thus it is clear that water coming into the Quarry, during and after rainfall, accumulates in a volume higher than that which can be pumped out during the same time period.

It is my belief that a hard overnight rainfall could cause the same conditions to return, and forecasts from the national weather service indicate that the coming weeks will produce higher than average rainfall. Regardless, based upon my observations, if significant rainfall occurs and water continues to enter the Quarry at the same rate, it is likely that the well and transformers will be under water in less than a day or two.

Thus, it is my belief that the variance should be extended in order to avoid the exigencies that caused the initial variance to be sought.

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VERIFICATION OF FRANK SCHMIDT

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he verily believes them to be true.



Frank Schmidt