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March 21, 2007

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 W. Randolph, Suite 1100
Chicago, IL 60601

Mr. Tim Fox
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, IL 60601

Re: **Public Comment**
PCB No. R-07-008

Dear Ms. Gunn and Hearing Officer Fox:

The National Solid Wastes Management Agency ("NSWMA") is pleased to present this **Joint Comment** of it and the Illinois Environmental Protection Agency. This joint comment is in response to questions posed by Board Member Moore and the Board's Senior Environmental Scientist, Anand Rao, at the February 28, 2007 Hearing concerning the clarity of the sequence of events following the confirmation of a monitored increase in certain constituents. This joint comment proposes certain new language in an effort to address the Board's concerns and clarify the proper sequencing of events following confirmation of a monitored increase.

The proposed language is designed to clearly identify the sequence of possible actions after an observed increase in landfill parameters has been confirmed. Once an observed increase has been confirmed by the operator, the Illinois EPA must be notified. (See 811.319(a)(4)(B)(i)). The operator then has 180 days from the original sampling event to either: submit a notification to the Illinois EPA with an "alternate source demonstration" showing that the landfill is not the source of the observed increase (811.319(a)(4)(B)(ii) and (iii)); or submit plans for an assessment monitoring program (811.319(b)(2)). Both submittals must be in the form of a significant modification permit application. In the event an operator submits an "alternate source demonstration" that is denied by the Agency,

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the operator must commence sampling and submit plans for an assessment monitoring program within 30 days of the denial. (811.319(a)(4)(B)(v)).

The actual language that both the NSWMA and the Agency have agreed to is as follows (current proposed amendments to the rule are identified by strikeouts and underlines, the newly proposed additional language is highlighted in **Bold**):

811319 (a) (4) (B):

B) The confirmation procedures shall include the following:

- i) The operator shall verify any observed increase by taking additional samples within 45 90 days of the ~~initial-observation~~ sampling event and ensure that the samples and sampling protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with Section 811.320(e), so as to confirm the observed increase. The operator shall notify the Agency of any confirmed increase before the end of the next business day following the confirmation.
- ii) The operator shall determine the source of any confirmed increase, which may include, but shall not be limited to, natural phenomena, sampling or analysis errors, or an offsite source.
- iii) The operator shall notify the Agency in writing of any confirmed increase ~~and~~. The notification must demonstrate a source other than the facility state the source of the confirmed increase and provide the rationale used in such a determination. ~~Within ten days of the determination.~~ The notification shall be submitted to the Agency no later than 180 days of the original sampling event. If the facility is permitted by the Agency, the notification shall be filed for review as a significant permit modification pursuant to 35 Ill. Adm. Code 813. Subpart B.
- iv) If an alternate source demonstration described in (ii) and (iii) of this subsection, cannot be made, assessment monitoring is required in accordance with 35 Ill. Adm. Code 811.319(b).

v) If an alternate source demonstration, submitted to the Agency as an application, is denied pursuant to 35 Ill. Adm. Code 813.105, the operator must commence sampling for the constituents listed under 35 Ill. Adm. Code 811.319(b)(5), and submit an assessment monitoring plan as a significant permit modification, both within 30 days of the dated notification of Agency denial. The operator must sample the well or wells that exhibited the confirmed increase.

b) Assessment Monitoring

The operator shall begin an assessment monitoring program in order to confirm that the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with subsection (c). The assessment monitoring program shall be conducted in accordance with the following requirements:

- 1) The assessment monitoring shall be conducted in accordance with this subsection to collect information to assess the nature and extent of groundwater contamination. The owner or operator of a MSWLF unit shall comply with the additional requirements prescribed in subsection (b)(5). The assessment monitoring shall consist of monitoring of additional constituents that might indicate the source and extent of contamination. In addition, assessment monitoring may include any other investigative techniques that will assist in determining the source, nature and extent of the contamination, which may consist of, but need not be limited to:
 - A) More frequent sampling of the wells in which the observation occurred;
 - B) More frequent sampling of any surrounding wells; and
 - C) The placement of additional monitoring wells to determine the source and extent of the contamination.
- 2) The Except as provided for in 811.319(a)(4)(B)(iii) and (v), the operator of the facility for which assessment monitoring is required shall file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans shall be filed for review as a significant permit modification

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pursuant to 35 Ill. Adm. Code 813 Subpart B within 180 days of the original sampling event. The assessment monitoring program shall be implemented within ~~90~~ 180 days of ~~confirmation of any monitored-increase~~ the original sampling event in accordance with subsection (a)(4) or, in the case of permitted facilities, within ~~90~~ 45 days of agency approval.

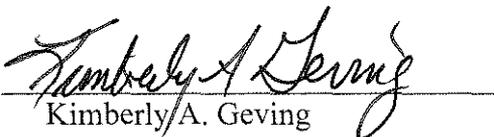
As noted above, this language is submitted as a **Joint Comment**. Neither the NSWMA nor the Agency object to the Board's unilateral revision of the proposed amendments to conform to this new language.

Very truly yours,

NATIONAL SOLID WASTES
MANAGEMENT AGENCY

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Charles J. Northrup

ILLINOIS ENVIRONMENTAL
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By: 
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