

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**  
CLERK'S OFFICE

SEP 17 2007

PEORIA DISPOSAL COMPANY, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
)  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board  
PCB No. 08- 25  
(Permit Appeal - Land)

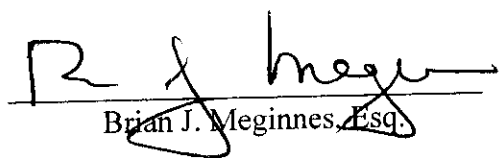
**NOTICE OF FILING AND PROOF OF SERVICE**

The undersigned certifies that an original and nine (9) copies of the foregoing Petition for Review of Permit Denial and of this Notice of Filing and Proof of Service, were served upon the Clerk of the Illinois Pollution Control Board, and one copy thereof was served on Respondent, by enclosing same in envelopes addressed as follows, and depositing such envelopes in a U.S. Post Office mailbox in Peoria, Illinois, before 5:00 p.m. on the 13th day of September, 2007, with First Class postage fully prepaid:

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

Mr. Douglas P. Scott, Director  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 61794-9276

Robert Messina  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
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P.O. Box 19276  
Springfield, Illinois 61794-9276

  
Brian J. Meginnes, Esq.

Claire A. Manning, Esq.  
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205 S. Fifth Street  
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Brian J. Meginnes, Esq.  
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416 Main Street, Suite 1400  
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(309) 637-6000

Page 2

by such persons own activities" for purposes of the exclusion. The treatment residues are derived from wastes that were initially generated by off-site generators and, for purposes of the exclusion, are not generated and managed exclusively at facilities owned, controlled or operated by PDC.

Because of the deficiency discussed above no technical review was conducted on the application.

Pursuant to Section 705.128(b), this denial is not subject to public notice, comment, or public hearing requirements, and therefore will be effective immediately. However, as required by Section 703.283(f), notification of this action will be made to those members of the public who commented on the application.

As provided in Section 705.128(b), the Permittee may contest the denial of the request to modify by filing an appeal to the Illinois Pollution Control Board within 35 days of notification. The petition shall include a statement of the reasons supporting a review. In all other respects the petition shall be in accordance with the requirements for permit appeals set forth in 35 Ill. Adm. Code 105.

If you have any questions regarding this matter, please contact Mark L. Crites of my staff at 217-524-3269.

Sincerely,



Stephen F. Nightingale, P.E.  
Manager, Permit Section  
Bureau of Land

<sup>ML</sup>  
SFN:MLC/mls/071506s.doc

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AGENCY, )  
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Respondent. )

PCB No. 08- 25  
(Permit Appeal - Land)

**PETITION FOR REVIEW OF PERMIT DENIAL**

NOW COMES the Petitioner, PEORIA DISPOSAL COMPANY ("PDC"), through its undersigned attorneys, and files this Petition for Review of Permit Denial pursuant to Section 40 of the Illinois Environmental Protection Act ("Act"), 415 ILCS §5/40, and pursuant to 35 Ill. Adm. Code, Part 705, Subpart F, and 35 Ill. Adm. Code, Part 105, Subpart B, and seeks reversal of the decision made by the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (the "IEPA"), dated August 30, 2007, which denied an application of PDC to modify its RCRA Part B permit currently effective at the PDC No. 1 Landfill in Peoria, Illinois. Pursuant to Section 39(a) of the Act, 415 ILCS 5/39(a) and 35 Ill. Adm. Code §105.206(a), this Petition is timely filed with the Illinois Pollution Control Board ("Board").

In support of this Petition, Petitioner states as follows:

1. On or about January 5, 2007, PDC submitted to the IEPA an application for modification of PDC's RCRA Part B Permit No. ILD000805812/1438120003, Log No. 24, which was issued to Petitioner by the IEPA's Bureau of Land on November 4, 1987 (the "Application").

2. By letter dated August 30, 2007, the IEPA denied PDC's Application. A true and accurate copy of such letter is attached herewith as Exhibit A. The reason stated for the denial of the Application was as follows:

Section 39(c) of the Illinois Environmental Protection Act (415 ILCS 5/1/ et seq.) ("Act") prohibits Illinois EPA from granting a permit for the development of a new pollution control facility unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of the Act. Changes included in the subject submittal constitute creation of a new pollution control facility as defined in Section 3.330(b)(2) of the Act because the changes result in an increase of waste elevation, horizontal extent, and total disposal capacity over the previously approved RCRA Part B permit.

PDC's proposed "Residual Waste Landfill" would not qualify for the exclusion from the definition of "pollution control facility" at Section 3.330(a)(3) of the Act because the treatment residues from PDC's treatment operations do not constitute "wastes generated by such persons own activities" for purposes of the exclusion. The treatment residues are derived from wastes that were initially generated by off-site generators and, for purposes of the exclusion, are not generated and managed exclusively at facilities owned, controlled or operated by PDC.

(Exhibit A).

3. The IEPA permit decision letter defines the permit issue on appeal; the sole issue on appeal is whether the IEPA's above-referenced determination is correct as a matter of law.

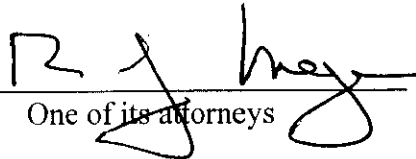
4. PDC maintains that the IEPA's decision is not correct as a matter of law and that Section 3.330(a)(3) of the Act, 415 ILCS 5/3.330(a)(3), applies to the circumstances outlined in PDC's application for permit modification, specifically that the proposed PDC No. 1 Residual Waste Landfill does not constitute a new "pollution control facility" for purposes of siting, since it is proposed solely to accept for disposal treated residue waste generated by PDC.

5. The IEPA should not have denied the Application as PDC was not required to submit proof of local siting approval.

WHEREFORE, PDC respectfully requests that the Board reverse the IEPA's permit denial, as it is incorrect as a matter of law and contrary to existing law, and grant PDC such other and further relief as the Board deems appropriate under the circumstances.

Respectfully submitted,

PEORIA DISPOSAL COMPANY,  
Petitioner

By:   
One of its attorneys

Dated: September 13, 2007

Claire A. Manning, Esq.  
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[jnair@emrslaw.com](mailto:jnair@emrslaw.com)

907-0665.1



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397  
 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR      DOUGLAS P. SCOTT, DIRECTOR

217-524-3300  
 August 30, 2007.

Certified Mail  
 7004 2510 0001 8617 3810

Peoria Disposal Company, Incorporated  
 Attn: Mr. Ron Edwards, Vice President  
 4349 Southport Road  
 Peoria, Illinois 61615

Rc: 1438120003 - Peoria County  
 Peoria Disposal Company #1  
 ILD000805812  
 Log No. B-24-M-58  
 RCRA Permit - Administrative Record

Dear Mr. Edwards:

This is in response to a submittal dated January 5, 2007, and received by Illinois EPA on the same date. The subject submittal contained a request for a Class 3 modification to the RCRA Part B permit at the referenced facility. Specifically, the submittal requested an expansion of the facility through the addition of a "Residual Waste Landfill."

The subject submittal has been reviewed by Illinois EPA, which hereby denies the request for modification in accordance with 35 Ill. Adm. Code 703.283(f) and 705.128(b). The Agency finds that the request for modification is not justified for the following reason:

Section 39(c) of the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) ("Act") prohibits Illinois EPA from granting a permit for the development of a new pollution control facility unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of the Act. Changes included in the subject submittal constitute creation of a new pollution control facility as defined in Section 3.330(b)(2) of the Act because the changes result in an increase of waste elevation, horizontal extent, and total disposal capacity over the previously approved RCRA Part B permit.

PDC's proposed "Residual Waste Landfill" would not qualify for the exclusion from the definition of "pollution control facility" at Section 3.330(a)(3) of the Act because the treatment residues from PDC's treatment operations do not constitute "wastes generated

EXHIBIT

A

- Tables -

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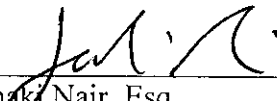
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(Permit Appeal - Land)

APPEARANCE

I, Janaki Nair, hereby file my appearance in this proceeding on behalf of  
Petitioner, Peoria Disposal Company.

Dated: September 13, 2007

  
\_\_\_\_\_  
Janaki Nair, Esq.  
ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.  
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(309) 637-6000  
[jnair@emrslaw.com](mailto:jnair@emrslaw.com)

907-0978



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD SEP 17 2007**

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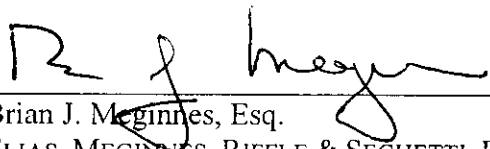
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(Permit Appeal - Land)

APPEARANCE

I, Brian Meginnes, hereby file my appearance in this proceeding on behalf of  
Petitioner, Peoria Disposal Company.

Dated: September 13, 2007

  
\_\_\_\_\_  
Brian J. Meginnes, Esq.  
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[bmeginnes@emrslaw.com](mailto:bmeginnes@emrslaw.com)

907-0977

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**  
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PCB No. 08- 26 STATE OF ILLINOIS  
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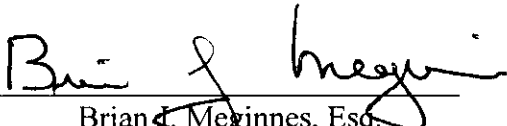
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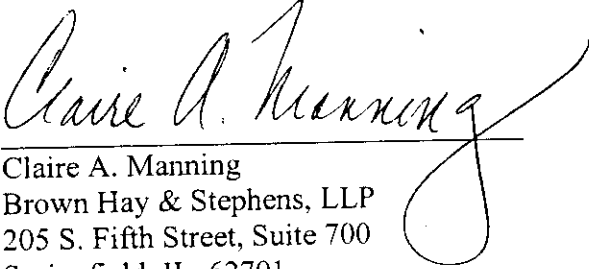
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STATE OF ILLINOIS  
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PCB No. 08-26  
(Permit Appeal - Land)

APPEARANCE

I, Claire A. Manning, hereby file my appearance in this proceeding on behalf of  
Petitioner, Peoria Disposal Company.

  
\_\_\_\_\_  
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