



January 12, 2009

TO THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED AMENDMENTS TO THE  
BOARD'S SPECIAL WASTE  
REGULATIONS CONCERNING  
USED OIL, 35 ILL. ADM. CODE 808, 809

ADDITIONAL COMMENTS OF GREGORY RAY

I am Gregory Ray, Chief Financial Officer and Vice President of Business Management for Heritage – Crystal Clean, LLC (“HCC”). I have previously provided testimony to the Illinois Pollution Control Board on several occasions regarding proposed rulemaking R06-20, which is the paperwork burden reduction proposal for used oil shipments in Illinois. I am writing today in response to the Post-Hearing Comments of the Illinois Environmental Protection Agency submitted to the Board on 12/15/2008 (“IEPA 12/15/08 Comments”).

I believe that in the IEPA 12/15/08 Comments, my prior testimony to the Board on October 1, 2008 has been misunderstood and mischaracterized by IEPA.

IEPA correctly states that in my prior testimony, I indicated that for HCC, roughly half of our customers are in the automotive segment, and roughly half of these would be Conditionally Exempt Small Quantity Generators (“CESQG”). However, I clearly stated

that my estimates were with respect to the “number of customers,” which is not indicative of volume.

It is clear to anyone familiar with our industry that CESQG customers are the smallest generators. As such, a large number of CESQG customers represent only a small fraction of the total volume collected or available for collection. I even provided testimony of this distribution by noting that our smaller customers might generate only 50 gallons per year of used oil, and our larger customers could generate 1,000 gallons per week – that is, more than 50,000 gallons per year (See October 1, 2008 Hearing Transcript Page 54 Lines 3-7). Using these figures, a thousand small customers would not represent as much volume as one larger customer.

The IEPA suggests that their reading of my testimony in some fashion supports their conclusion that “most used oil ... will be exempt from manifests if the language in the Board’s first notice proposal is adopted.” This is an unfounded conclusion. My testimony was with respect to the number of generators – small generators – that I believe fit into the CESQG category. This should not be misunderstood to support IEPA’s overbroad conclusion regarding the fraction of all used oil that would be exempted.

Far more important than this is what the IEPA’s comment implies about their misunderstanding of the industry position on this issue. IEPA states that the Board’s first notice proposal would exempt most used oil (by volume) from manifesting –

implying that this meets some objective. But it does not. Neither my company (HCC) nor the trade industry that is working with us on this issue (NORA) is solely focused on securing manifest exemptions for a particular volume of used oil. We have said, time and time again, that we are seeking paperwork reduction that does not result in any new burdens imposed on Illinois used oil generators or transporters. A proposal which exempts some Illinois generators from manifesting, but which requires new burdens for differentiating various categories of materials which were all previously subject to management as used oil, would not be desirable – even if this proposal resulted in a manifest exemption for a majority of the total used oil volume. In my comments to the Board dated October 19, 2006 (See Docket Public Comment #42 logged 10/23/2006), I provided an example of the sort of real-world problem we are trying to address – a customer who generates a mixed wastestream of compatible used oil materials who wants to continue to manage this material as used oil. I don't believe that IEPA has even attempted to address this real-world problem with any of their proposals.

Nevertheless, we believe that a good solution is possible, and even easy, to achieve. We believe that our proposal results in the elimination of unnecessary waste manifests, while preserving all the information requested by the IEPA on a shipping paper that meets the requirements of the DOT and also satisfies our business information needs. At the same time, we want to preserve the current cohesive definition of materials subject to regulation as used oil, and make sure that this category is not fragmented into subcategories that begin to require segregation or separate treatment. Such fragmentation of materials subject to management as used oil would be bad for the

regulated industry, and would be totally inconsistent with the regulation of used oil in neighboring states.

Thank you for considering NORA's proposal and my comments. NORA's proposal reflects an approach which has been successful throughout most of the United States for more than twenty years, and I believe that this proposal is in the best interests of the citizens of the state of Illinois.

A handwritten signature in black ink, appearing to read "Gregory Ray", written over a horizontal line.

By Gregory Ray, CFO and Vice President of  
Business Management,  
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