

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

CATHERINE THOMAS, d/b/a THOMAS )  
12<sup>th</sup> STREET DISPOSAL, )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

PCB 10-85  
(Permit Appeal-Land)

Respondent. )

**PETITION TO REVIEW THE DENIAL OF  
SUPPLEMENTAL PERMIT APPLICATION LOG NO. 2009-595  
BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

The Petitioner CATHERINE THOMAS d/b/a Thomas 12<sup>th</sup> Street Disposal hereby appeals the denial of a supplemental permit by the Illinois Environmental Protection Agency, pursuant to 35 Ill. Adm. Code 105.100 et seq., stating as follows:

1. On March 24, 2010, the Illinois Environmental Protection Agency denied Supplemental Permit Application Log No. 2009-595 (to original Permit No. 1974-44-DE/OP) to Catherine Thomas d/b/a Thomas 12<sup>th</sup> Street Disposal. (A copy of the denial of the Supplemental Permit Application Log No. 2009-595 is attached to this Petition as Petitioner's Exhibit 1).

2. The denial was served on Catherine Thomas on April 1, 2010.

3. The Petitioner, through counsel, requested a 90-day extension from the Illinois Environmental Protection Agency on April 13, 2010.

4. The Illinois Environmental Protection Agency and the Petitioner joined in requesting a 90-day extension of the Board on April 21, 2010.

5. The Board on May 6, 2010 granted the request for the extension and extended the deadline until August 4, 2010.

6. The denial of the permit application was improper in that:

A. In as much as the Petitioner has fully followed the requirements set forth by the Illinois Environmental Protection Agency for almost the entire fifteen year period, it was improper for the agency to arbitrarily add additional standards not requested or required by the consulting engineers immediately before the end of the closure period.

B. Application Log No. 200-9-595 was submitted pursuant to Condition No. 5 of Supplemental Permit No. 2006-492-SP. [Note that the actual application referenced Permit No. 2007-300-SP-492-SP]. This application was a biennial update required by January 1, 2010. Since the Affidavit for Certification of Completion of Post-Closure Care had been submitted September 24, 2009, the biennial update requested the release of all remaining funds.

The regulation that addresses the release of the operator is Section 807.606, which states:

Section 807.606 Release of the Operator

(a) Within 60 days after receiving affidavits from the operator and a professional engineer that closure has been accomplished in accordance with the closure plan, the Agency will notify the operator in writing that it is no longer required by this Subpart to maintain financial assurance for closure of the particular site, unless the Agency has reason to believe that closure has not been in accordance with the closure plan.

(b) Within 60 days after receiving affidavits from the operator and a professional engineer that post-closure care has been completed in accordance with the post-closure care plan and the requirements this Part, the Agency will notify the operator in writing that it is no longer required to maintain financial assurance for post-closure care of the site, unless the Agency has reason to believe that continued post-closure care is required pursuant to the post-closure care plan and this Part.

(Source: Amended at 9 Ill. Reg. 18942, effective November 25, 1985).

Via the Affidavit, the site post-closure care period has been completed in accordance with the approved post-closure care plan. This includes maintenance and monitoring.

C. The Petitioner also incorporates all of the technical arguments included in PCB 10-52, PCB 10-69 and PCB 10-80, by reference, as the Petitioner anticipates that these four PCB cases will ultimately be consolidated.

7. Petitioner requests that the Board reverse the decision of the Illinois Environmental Protection Agency.

CATHERINE THOMAS,  
d/b/a THOMAS 12<sup>th</sup> STREET  
DISPOSAL,

By: 

David K. Cox  
Attorney at Law

David K. Cox  
Attorney for Petitioner  
Washington Plaza  
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Monticello, Illinois 61856  
217-762-3800  
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# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

March 24, 2010

Certified Mail  
7004 2510 0001 8625 5301

Thomas 12<sup>th</sup> Street Disposal  
Attn: Catherine Thomas  
55 Greenwood Cemetery Road  
Danville, Illinois 61832

Re: 1838040009 -- Vermilion County  
Thomas 12<sup>th</sup> St Disposal  
Log No. 2009-595  
Permit Landfill 807 File  
Permit Denial

Dear Mrs. Thomas:

This will acknowledge receipt of your Application for Permit to modify a solid waste management site, dated and received by the Illinois EPA on December 30, 2009.

Your permit application to release financial assurance funds is denied.

You have failed to provide proof that granting this permit would not result in violations of the Illinois Environmental Protection Act (Act). Section 39(a) of the Act [415 ILCS 5/39(a)] requires the Illinois EPA to provide the applicant with specific reasons for the denial of permit. The following reason(s) are given:

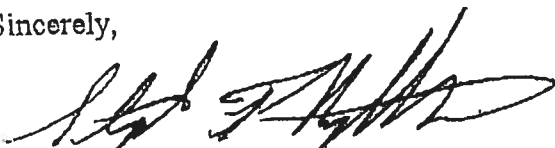
1. The facility is still in post-closure care. Therefore, release of the financial assurance funds would violate Section 21.1(a) of the Act and 35 Ill. Adm. Code Sections 807.600 and 807.601.

Within 35 days after the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

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Should you wish to re-apply or have any questions regarding this application, please contact Tom Hubbard at 217/524-3286.

Sincerely,



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

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TWH COL

cc: Doug Mauntel, P.E., Andrews Engineering  
Stephen Laker, Vermilion County Health Dept.

