

State of Illinois
POLLUTION CONTROL BOARD
JAMES R. THOMPSON CENTER
100 W. RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

WILLIAM SPENCER)	
)	
Complainant(s),)	
)	
v.)	PCB 15-63
)	(Enforcement - Land)
CLINTON LANDFILL, INC.)	
AND)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent(s).)	

RESPONSE MOTION TO DISMISS

Response is to motions made by both respondents to dismiss. No complaint has been made against the Agency. Only Complaint was made against CLI for failure to comply with the ACT specifically 39.2 by failing to acquire a siting for a new waste stream at its facility in Clinton Illinois. CLI should either deny or admit to this complaint. Other request to the Board was to allow third party participation in PCB 2015-060 as only to the issue of siting under 39.2 of the ACT not the changes made to the permit by the Agency.

1. Motion to participate in PCB 2015-060 was not to intervene in the permit appeal case filed by CLI against the Agency but was a Formal Complaint against CLI's failure to comply with 39.2 of the act and its creation of a hazardous waste unit by its own making when it created a new type of unit "Chemical Waste Unit" that is not identified by the Act or any Rules or Regulations.
2. Respondent's motion to dismiss by Clinton landfill states:

“the only proper parties to a permit appeal are the applicant and the agency” and further states “Mr. Spencer seeks anything other than to defend the agency’s Modification No. 47”

As a complainant I clearly only have the authority granted under the ACT as a citizen that was denied an opportunity to participate in a required siting for a “new waste stream” as mandated by 39.2 of the ACT and was clearly denied that right by actions taken by CLI that where wantonly deceptive to avoid the required siting process that involved a possibility of failure obviously resulting in a business loss to CLI.

3. Any modifications to CLI’s Permit by the Agency is strictly under Agency authority on the other hand the Agency is very limited in its authority in regards to 39.2 other than the requirement that the permit applicant certify that siting requirements under 39.2 have been met as part of the application process.
4. PCB 2015-060 is as much if not more in cause to the inaction of CLI to notify the public of its intentions to design, construct and operate a hazardous waste unit and CLI’s failure to obtain local siting approval as required under 39.2 of the Act.
5. PCB 2015-060 clearly states the cause of action for permit modifications by the Agency as being the fact that CLI gave false and misleading statements to the Agency concerning its local siting requirements. Obviously CLI failed to meet its requirements under 39.2 of the Act that was the cause of Agency actions resulting in permit changes for CLI’s facility in Clinton Illinois.
6. If allowed as a third party, evidence could be brought before the board in PCB 2015-060 that would show:
 - 1) CLI knowingly made changes to its subtitle D landfill permit for a “new waste stream” that it acknowledged publicly it could not have accepted without modifying its current permit and acquiring federal permission.

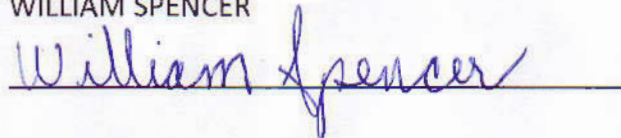
- 2) By a series of actions taken by CLI it was attempting to create a hazardous waste unit to satisfy its customer's needs.
 - 3) CLI's intentions and plans had not been made public to accept hazardous waste at its subtitle D landfill that is the subject of PCB 2015-060 before the board.
7. CLI by use of staged deceptions to the agency, public and federal EPA was able to avoid the most important part of the ACT 39.2 that weighs out the RISK and BENEFIT to local citizens of its plans to accept a "new waste Stream". CLI was allowed to accept all waste streams except hazardous under its original permit and 2002 siting. Any changes to its permit for a "new waste stream" could only be logically for hazardous waste.
8. Clinton Landfill failed to follow all of section 39.2 of the Illinois Environmental Protection Act when it failed to acquire a new siting for its modifications to Permit NO. 2005-070-LF to accept a "new waste stream".

Under the ACT 39.2 Siting is a legislative authority and duty granted to local government only, not the Agency. Siting is held in a public forum by law with each citizen having the right to participate. Siting is clearly a planned required process by law that decides the type and means of waste disposal that is acceptable in our communities by its citizens.

For the above reasons I request that motion to dismiss be denied by both respondents.

Respectfully Submitted,

WILLIAM SPENCER

A handwritten signature in blue ink that reads "William Spencer". The signature is written in a cursive style and is positioned above a horizontal line.

Complainant

CERTIFICATION

I, WILLIAM SPENCER, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

William Spencer
(Complainant's signature)

Subscribed to and sworn before me
this 13th day
of October, 2014.

Sherrie Brown
Notary Public



My commission expires: 09-13-2016

CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on (month, day, year)
October 14, 2014, I served the attached Response to Motions to Dismiss and notice
on the respondents by: (check appropriate line)

X certified mail (attach copy of receipt if available, otherwise you must file
receipt later with Clerk)

 registered mail (attach copy of receipt if available, otherwise
you must file receipt later with Clerk)

 messenger service (attach copy of receipt if available, otherwise you must
file receipt later with Clerk)

 personal service (attach affidavit if available, otherwise you
must file affidavit later with Clerk)

 EMAIL

at the address below:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield Illinois 62794-9276
James.m.jennings@illinois.gov

Clinton Landfill Counsel
Brian J. Meginnis
416 Main Street Suit 1400
Peoria IL 61602
bmeginnis@emrslaw.com
jnair@emrslaw.com

William Spencer
Complainant's signature

2358 1150th St
Kenney IL 61749

Subscribed to and sworn before me
this 13th day
of October, 2014.

Sherrie Brown
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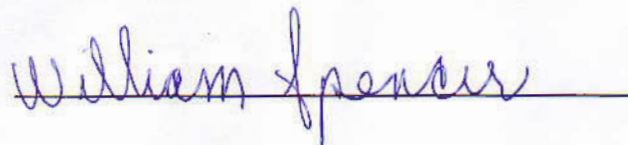
NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on the 13th day of October 2014, I filed with the office of the Clerk of the Pollution Control Board the Complainant William Spencer's Response to Motions to Dismiss by Both Respondents.

Copies of the documents are attached hereto and served upon the persons listed in the attached service list.

Respectfully Submitted,

WILLIAM SPENCER



Complainant