BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

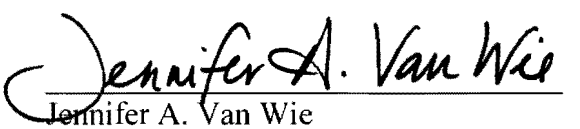
CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on the 16th day of September 2014, I have filed with the Office of the Clerk of the Pollution Control Board the Appearance of Matthew J. Dunn on behalf of the Respondent, Illinois Environmental Protection Agency, and Respondent's Response in Opposition to Petitioner's Motion for Order Regarding Stay. Copies of the documents are attached hereto and served upon the persons listed in the attached Service List.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By LISA MADIGAN
Attorney General of the
State of Illinois



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Date: September 16, 2014

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APPEARANCE

I hereby enter my appearance in this matter as additional counsel for Respondent, the Illinois Environmental Protection Agency. Assistant Attorney General Stephen J. Sylvester is lead counsel for Respondent in this matter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Matthew J. Dunn

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Date: September 16, 2014

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RESPONDENT'S RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR ORDER REGARDING STAY

Now comes Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("IEPA"), by LISA MADIGAN, Attorney General of the State of Illinois, and hereby provides its response in opposition to Petitioner's, CLINTON LANDFILL, INC. ("CLI"), Motion for Order Regarding Stay. In support of this Response, the IEPA states as follows:

I. INTRODUCTION

On August 28, 2014, CLI filed with the Illinois Pollution Control Board ("Board") its Petition for Review ("Petition") and Motion for Order Regarding Stay ("Motion"). In its Motion, CLI asks the Board to stay as a matter of law the effectiveness of Permit Modification No. 47 ("Mod 47") in its entirety, pursuant to Section 10-65(b) of the Administrative Procedures Act ("APA"), 5 ILCS 100/10-65(b). Petition at 8.[1]

The Board should deny CLI's Motion as a matter of law, because:

1. The plain language of Section 10-65(b) of the APA does not apply to Mod 47 - an IEPA-initiated permit modification.

2. CLI has not met the requirements for a Section 10-65(b) stay because its

[1] CLI's Petition and Motion are contained in one document and for purposes of citing to it in this Response, it shall be collectively referred to as "Petition."

application for the Chemical Waste landfill (Mod 9) was not "sufficient"; CLI failed to show that it had obtained local siting approval for the chemical waste landfill;

3. CLI has not met the requirements for a Section 10-65(b) stay because its application for the Chemical Waste landfill (Mod 9) was not an "application for the renewal of a license" or a "new license with reference to any activity of a continuing nature"; CLI's Mod 9 application sought a permit for a new type of landfill, a chemical waste landfill, which is not mentioned anywhere in the DeWitt County Board's Certification of Siting Approval for Clinton Landfill No. 3, approving a municipal solid waste landfill ("MSWLF").

4. Section 1-5 of the APA sets forth a grandfather provision for agency procedures that were in place prior to July 1, 1977 when the APA became effective. The Act and Board regulations provided procedures for landfill permitting and review prior to July 1, 1977 and, as this Board has held pursuant to Section 1-5, the APA is not applicable to this landfill permit review case.

5. Finally, CLI has not sought a discretionary stay and therefore the Board should not consider granting one.

A. Timeline of relevant events

1. On April 11, 2002, CLI filed an Application for Local Siting Approval of a Pollution Control Facility with the DeWitt County Clerk to expand the then-existing municipal solid waste and non-hazardous special waste landfill already located within DeWitt County to create 'Clinton Landfill No. 3' ("CL3"). Petition at 2, ¶ 1.

2. On July 11 and 15, 2002, the DeWitt County Board held public meetings to discuss CLI's proposal to expand its municipal solid waste and non-hazardous special waste landfill. Petition, Ex. B, pg. 4.

3. On September 12, 2002, the DeWitt County Board conditionally approved CLI's request for site approval of the proposed expansion of CL3 based on CLI's siting application, notifications, hearings, public comment and the record. Petition, Ex. B, pg. 4.

4. On October 17, 2002, the DeWitt County Board certified its siting approval for CL3, a municipal solid waste and non-hazardous special waste landfill. Petition, Exhibit B.

5. On February 28, 2005, CLI submitted an application to the IEPA to develop CL3 as a new municipal solid waste landfill which would accept non-hazardous municipal solid wastes, non-hazardous wastes, and non-hazardous special wastes.

6. On March 2, 2007, the IEPA issued Permit No. 2005-070-LF to CLI for the development of CL3. Petition at 2, ¶ 4.

7. On October 19, 2007, CLI applied to the United State Environmental Protection Agency ("USEPA") for approval to develop and operate a chemical waste landfill, which would allow it to accept polychlorinated bi-phenols ("PCBs") at CL3. October 19, 2007 CLI Application Letter and Executive Summary to USEPA, attached hereto as Exhibit 1.

8. On February 1, 2008, CLI filed a permit application with IEPA to modify its Permit to allow CLI to develop and operate a Chemical Waste Unit ("CWU") at CL3. Petition at 2, ¶ 5. February 1, 2008 CLI Modification #9 Application (partial), attached hereto as Exhibit 2.

9. On January 8, 2010, the IEPA issued Permit Modification No. 9 ("Mod 9") to CLI to allow it to develop and construct the CWU at CL3. Petition at 3, ¶ 7.

10. On April 1, 2011, the IEPA issued Permit Modification No. 18 ("Mod 18") to CLI to operate the CWU at CL3. Petition at 3, ¶ 8.

11. On July 5, 2012, the IEPA issued Permit Modification No. 29 ("Mod 29") to CLI renewing Permit No. 2005-070-LF in its entirety. Petition at 3, ¶ 11.

12. On July 22, 2014, the IEPA sent a letter to the DeWitt County Board seeking information regarding the September 12, 2002 local siting approval. July 22, 2014 IEPA Letter to the DeWitt County Board, attached hereto as Exhibit 3.

13. On July 24, 2014, the DeWitt County Board responded to the July 22, 2014 IEPA letter seeking information regarding the September 12, 2002 local siting approval. July 24, 2014 DeWitt County Board Response Letter, attached hereto as Exhibit 4.

14. On July 30, 2014, the IEPA issued Permit Modification No. 46 ("Mod 46") to CLI. Petition at 3, ¶ 12.

15. On July 31, 2014, the IEPA issued Agency initiated Permit Modification No. 47 ("Mod 47) to CLI. Petition at 4, ¶ 14.

II. ARGUMENT

A. Section 10-65(b) of the Administrative Procedures Act is inapplicable to this proceeding.

CLI is seeking to stay the effectiveness of Mod 47 "as a matter of law, in its entirety, while this proceeding is pending before the Board".[2] Petition at 8. CLI cites Section 10-65(b) of the APA, 5 ILCS 100/10-65(b), to support its contention. However, in its Motion CLI fails to provide any support for its claim that Section 10-65(b) applies to the IEPA's issuance of Mod 47. A closer review of Section 10-65(b) demonstrates, as a matter of law, its inapplicability.

[2] The request for a stay is at odds with CLI's representations to the public. In a press release issued to the News-Gazette by Peoria Disposal Company, Vice President and Chief Operating Officer Chris Coulter stated:

> Nevertheless, CLI (Clinton Landfill, Inc.) will abide by Permit Modification No. 47 and cease accepting MGP remediation wastes for disposal in the Clinton Landfill CWU effective July 31, 2014, until all of the litigation is settled and resolved on this matter.

Available at http://www.news-gazette.com/news/local/2014-08-08/landfill-owners-plan-appeal-quinns-waste-ban.html.

Section 10-65(b) of the APA provides for a stay in certain limited circumstances, as set forth below:

> (b) When **a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature**, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court.

(Emphasis added.) 5 ILCS 100/10-65(b) (2012).

To determine the applicability of Section 10-65(b) to this matter, a review of the case law on statutory interpretation is necessary. In construing the meaning of a statute, the Illinois Supreme Court has stated that the primary objective is to ascertain and give effect to the intention of the legislature, and that all other rules of statutory construction are subordinated to this cardinal principle. *Metzger v. DaRosa*, 209 Ill. 2d 30, 34 (2004). Moreover, the plain language of the statute is the best indicator of the legislature's intent. *Id. at* 34-35. Further, when a statute's language is clear, it will be given effect without resort to other aids of statutory construction. *Id.* at 35. It is axiomatic that if a statute contains language with an ordinary and popularly understood meaning, courts will assume that that is the meaning intended by the legislature. *M.I.G. Investments, Inc. v. E.P.A.*, 122 Ill. 2d 392, 398 (1988). In addition, statutes should be read so as to yield logical and meaningful results and to avoid constructions that render specific language meaningless or superfluous. *Rochelle Disposal Serv., Inc. v. Ill. Pollution Control Bd.*, 266 Ill. App. 3d 192, 198 (2nd Dist., 1994).

To demonstrate the applicability of Section 10-65(b) of the APA, several criteria must be met by CLI, including that 1) CLI (i.e. the "licensee"), 2) has made timely and sufficient application for either, 3) the renewal of a license, or 4) a new license with reference to any activity of a continuing nature.

1. The IEPA's unilateral decision to issue Mod 47 was not a "renewal of a license."

As an initial matter, the plain language of Section 10-65(b) requires that CLI (i.e. the "licensee") is the one to submit a timely and sufficient application to the IEPA for the "renewal of a license." In Mod 47, the IEPA stated, in pertinent part, the following:

> Under provisions of 35 Ill. Adm. Code 813.201(b)(1), Modification No. 9 to Permit No. 2005-070-LF, which was originally issued on January 8, 2010 and approved development of the Chemical Waste Unit (CWU) at Clinton Landfill 3, is being revised, on July 31, 2014, **through an Agency initiated modification (Modification 47) . . .**

(Emphasis added.) Petition, Ex. A, Cover Letter, p. 1 and Mod 47, p. 3.[3] By its terms, Mod 47 was an "Agency initiated modification." As a result, this is not a situation where a "licensee," in this case CLI, submitted to the IEPA a "timely and sufficient application" for the "renewal of a license or a new license with reference to any activity of a continuing nature." It is a tremendous stretch for CLI to argue that it is entitled to a permit stay under Section 10-65(b) when the IEPA claims CLI provided "false or misleading information" to receive the permit in the first place. *See* 35 Ill. Adm. Code 813.201(b)(1)(B). For this reason alone, Section 10-65(b) of the APA is inapplicable to this case.

2. CLI's Mod 9 application did not contain "sufficient" information demonstrating local siting approval for the Chemical Waste Landfill.

The inapplicability of Section 10-65(b) is further demonstrated through the IEPA's issuance of Mod 47 to correct for CLI's failure to provide sufficient information in its Mod 9 application. Section 813.201(b)(1)(B) of the Board Regulations, 35 Ill. Adm. Code 813.201(b)(1)(B), allows the IEPA to modify a permit where it has discovered "that a determination or condition was based upon false or misleading information." The IEPA's independent authority to modify waste disposal permits under Section 813.201(b) has been

[3] This is actually the seventh page of Ex. A, but the document's internal page number is 3.

reviewed and been held to be consistent with the Act and the Board's rulemaking authority. *See Waste Mgmt. of Illinois, Inc. v. Pollution Control Bd.*, 231 Ill. App. 3d 278 (1st Dist., 1992).

In its application for Mod 9, CLI failed to establish that the design, operation, and waste stream changes requested in Mod 9 had been approved by the DeWitt County Board through the local siting process. On July 22, 2014, the IEPA sought additional information regarding the DeWitt County Board's 2002 local siting approval for CL3. Ex. 3 at 1. The DeWitt County Board provided its response to the IEPA's inquiry by letter dated July 24, 2014, which included portions of CLI's Application for Siting Approval ("Siting Application") and portions of the hearing transcript during the local siting hearings. *See* Ex. 4. The IEPA's questions (in italics) and the DeWitt County Board's Responses are provided below:

> *In its September 12, 2002 siting approval, did the Board authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill?*
>
> No. The Board did *not* authorize the disposal of TSCA-regulated PCBs in its September 12, 2002 siting approval. In fact, a Clinton Landfill representative testified at the siting hearing that no such PCB waste would be accepted by the Landfill. The Board also did *not* authorize the disposal of manufactured gas plant (MGP) waste which exceeds the regulatory levels contained in 35 Ill. Adm. Code 721.124(b) in its September 12, 2002 siting approval.
>
> *At any time after September 12, 2002, did the Board issue any other siting decision to Peoria Disposal to authorize it to accept PCB wastes in TSCA-regulated concentrations at the Landfill?*
>
> No. The Board issued no further siting decisions subsequent to its 2002 siting approval, nor was the Board ever asked by Clinton Landfill to provide a subsequent siting decision, either for TSCA-regulated PCB wastes, or for MGP wastes which exceed the regulatory levels contained in 35 III. Adm. Code 721.124(b).
>
> *If its September 12, 2002 siting approval did not authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill, does the Board believe that additional siting approval is necessary for Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations*

at the Landfill?

> Yes. On November 14, 2013, the DeWitt County Board passed a resolution stating, in part, that **the Board believes the Chemical Waste Unit of Clinton Landfill #3 (which has been permitted by Illinois EPA to accept both the PCB and MGP waste streams noted above) required local siting pursuant to the Illinois Environmental Protection Act (415 ILCS 5/39.2).**

(Emphasis added.) Ex. 4 at 1-2.

In its 2002 Siting Application, CLI specifically stated that the "following wastes will not be accepted . . . [w]astes containing polychlorinated bi-phenyls (PCBs) at concentrations greater than that allowed by the Toxic Substances Control Act (TSCA)." (Emphasis added in original.) Ex. 4 at 4. In addition, on July 11, 2002, during the public hearing conducted on the Siting Application before the DeWitt County Board, Ronald L. Edwards, Vice President of Landfill Development and Operation for CLI, testified that "[h]azardous waste as defined by Illinois Administrative Code Title 35, Section 721, will not be accepted" and that "[w]aste concerning PCB's regulated by the Toxic Substances Control Act will not be accepted" at CL3. Ex. 4 at 19-20. Local siting for CL3 was premised, in part, on the foregoing information that was part of the record before the County Board. Specifically, the DeWitt County Board's Resolution Conditionally Approving the Application for Local Siting stated that "recommendations for conditional siting approval . . . includes the determination that all applicable requirements of Section 39.2 have been met **based upon the siting application, notifications, hearings, public comment and the record.**" (Emphasis added.) Petition, Ex. B at 5. The County Board's Resolution further relied upon Mr. Edwards' testimony in consideration of local siting criteria (a)(ii) set forth in Section 39.2 of the Act. 415 ILCS 5/39.2(a)(ii) ("the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected"). However, in its Mod 9 application to the IEPA, CLI provided none of the information upon

which the DeWitt County Board based its approval and made no mention of it. Specifically, in its Mod 9 application, CLI stated as follows:

> Section 812.105 - Approval By Unit Of Local Government
>
> The DeWitt County Board granted local siting approval for Clinton Landfill No. 3 on September 12, 2002. Documentation of the local siting approval was provided to the IEPA with the initial application to develop Clinton Landfill No. 3 (Log No. 2005-070). **This application does not propose a new nor [*sic.*] an expansion to the currently permitted Clinton Landfill No. 3 and, therefore, local siting approval is not required for this permit modification.**

(Emphasis added.) Ex.2 at 8.

a. CLI's Mod 9 application for a chemical waste landfill was a new pollution control facility.

The permitting process for landfills is well-established and clearly laid out in the Act. For a landfill permit to be valid, both the IEPA and the applicant must comply with the provisions of the Act. The General Assembly has set out the steps which must be completed before attempting to obtain a landfill permit from the IEPA. Some types of permitting decisions require that an applicant obtain local siting prior to the issuance of the permit. Specifically, Section 39(c) provides that local siting is a necessary prerequisite to obtaining a permit for a new pollution control facility. To vest the IEPA with the jurisdiction to consider, create, and issue a permit, an applicant must complete all of these steps. If either the IEPA or the applicant skips a step, whether intentionally or inadvertently, the IEPA lacks the information it needs to fully consider whether to issue a landfill permit. A review of the pertinent facts at issue here demonstrates that CLI did in fact skip a step, as it did not have the requisite local siting approval for the development of its CWU when it applied to the IEPA for Mod 9.

CLI's CWU, although located within the active MSWLF cell at CL3, was designed to accept a completely new waste stream made up of different constituents with potential hazards

and impacts separate from those found in typical municipal solid waste (e.g. household waste). CLI sought to be permitted to accept these new wastes via a mere permit modification (i.e. Mod 9). However, the proposed disposal activity for the CWU so integrally changes the operations at the facility as to render it a new "pollution control facility" under Section 3.330 of the Act and requiring it to obtain local siting under Section 39.2 of the Act.

The General Assembly has determined that local governing bodies have a concurrent and integral role to play in permitting pollution control facilities. *See e.g. City of Elgin v. County of Cook,* 169 Ill.2d 53, 64 (1996). Further, the General Assembly has charged the county board with "resolving the technical issues such as the public health ramifications of a landfill's design." *Kane County Defenders, Inc. v. Pollution Control Bd.*, 139 Ill. App. 3d 588, 592 (2nd Dist., 1985). This broad delegation of adjudicative power to a county board clearly reflects a legislative understanding that the county board hearing, which presents the only opportunity for public comment on the proposed site, is the most critical stage of the landfill site approval process. *Id.* at 593.

In this case, CLI had a permit to operate an MSWLF. However, CLI decided to change the waste streams accepted at CL3, including PCBs, and applied for a Toxic Substances Control Act ("TSCA") permit from the USEPA to do so. This was a fundamental change that was not considered during the local siting process for the MSWLF. In fact, in both its siting application and during the public siting hearings CLI had specifically represented that the site would only take municipal solid wastes and non-hazardous special wastes, and not hazardous wastes or wastes containing PCBs regulated by TSCA.

An applicant seeking siting approval must submit sufficient details of the proposed facility demonstrating that it meets each of the nine criteria set forth in section 39.2(a) of the Act.

Fox Moraine, LLC v. United City of Yorkville, 2011 IL App (2d) 100017, ¶13. In granting siting approval for CL3, the DeWitt County Board painstakingly addressed each of the nine local siting criteria set forth in Section 39.2(a) of the Act. Allowing CLI to modify its permit to add a chemical waste landfill would prevent the DeWitt County Board from fulfilling its statutory obligation to consider the location, design, and public health impacts, among other criteria, of the chemical waste landfill and thereby render Section 39.2 meaningless. *See Saline County Landfill v. IEPA*, at 18 (Slip Op., May 16, 2002) PCB 02-108; *see also United Disposal of Bradley v. IEPA*, at 19 (Slip Op., June 17, 2004) PCB 03-235.

i. The facts in this case demonstrate that CLI changed its landfill design between siting approval and permitting, without reapplying for siting approval, thereby rendered the Section 39.2 design criterion meaningless.

A review of the pertinent facts and admission herein demonstrates that the proposed disposal activity at the CWU so fundamentally changed the operations at the originally permitted CL3 MSWLF as to make it a new "pollution control facility" under Section 3.330 of the Act and requiring it to obtain local siting under Section 39(c) of the Act. CLI did not have independent local siting approval for the CWU when it applied to the IEPA for Mod 9 and accordingly the IEPA did not have the authority to issue Mod 9. In short, CLI created a new unit, the CWU, which included new designs and new waste streams that were not presented to the DeWitt County Board as part of the local siting approval in 2002.

(1). IEPA Fact Sheet

The substantial changes in design of CLI's CWU from the originally sited CL3 MSWLF are evident in the fact sheet on the IEPA's website. *See* IEPA Fact Sheet for CL3, attached hereto as Exhibit 5, and available at: http://www.epa.state.il.us/community-relations/fact-sheets/clinton-3/index.html.

CWU Design's Additional Environmental Safeguards

> The design for the CWU, which was approved in the permit issued by the Illinois EPA BOL in January 2010, exceeds the requirements for liner and *leachate* drainage systems in the non-hazardous waste landfills in Illinois. This design includes the same four layers of materials, that comprise the MSWU's liner and leachate drainage systems, but it also includes an additional four layers.
>
> Under CWU design, again starting at the bottom, there is a three foot layer of compacted clay and a 60-mil HDPE geomembrane. These two layers constitute the secondary liner. On top of the secondary liner, there is a 200-mil HDPE geonet that serves as the secondary leachate drainage layer. On top of the geonet is a 200-mil bentonite geosynthetic clay liner (GCL) sandwiched between two layers of 60-mil HDPE geomembrane. This geomembrane/GCL/geomembrane sandwich serves as the primary liner system. Finally, on top of the primary liner system is the primary leachate drainage system composed of a foot of sand overlain by a geotextile.

Id.

(2). CLI's Mod 9 Application

A review of CLI's 2008 Mod 9 application to the IEPA further demonstrates that CLI substantially changed the nature and character of the MSWLF at CL3 that the DeWitt County Board approved in 2002, including, among other things, a redesigned liner and leachate drainage collection system that meets the requirements of a hazardous waste landfill.

> On behalf of Clinton Landfill, Inc. (CLI), PDC Technical Services, Inc. (PDC) is **submitting this application to modify the design and operation of a portion of Clinton Landfill No. 3 (Facility I.D. 0390055036).** The design modifications include reconfiguring the southwest approximately 22.5 acres of Clinton Landfill No. 3. **The reconfiguration includes adding liner components and a redundant leachate drainage and collection system that comply with the technical requirements of 35 Ill. Adm. Code Part 724.401**. The reconfigured area is referred to herein as the Chemical Waste Unit, or CWU. CLI intends to utilize the CWU for disposal of non-hazardous Special Waste and certified non-Special Waste. Additionally, CLI has submitted an application to the United States Environmental Protection Agency (USEPA) to permit the CWU as a Chemical Waste Landfill, as defined at 40 CFR Part 761.3. Upon the USEPA's granting of that permit, CLI intends to accept polychlorinated biphenyl compound (PCB) wastes that are allowed by the USEPA to be disposed in a Chemical Waste Landfill, provided such wastes contain no more than 500 parts per millions (ppm) PCBs.

(Emphasis added.) Ex. 2 at 8.

The CWU and MSWLF are clearly intended to handle different waste streams and have different design criteria as well.

> 812.108.1 Type of Waste Disposal Unit and Types of Waste Accepted
>
> Chemical Waste Unit
>
> **The CWU is considered to be a Chemical Waste Landfill** and will accept only non-hazardous chemical waste, as defined by 35 III. Adm. Code Part 810.103. Upon approval of the USEPA, the CWU will be regulated by the USEPA as a Chemical Waste Landfill as defined by 40 CFR 761.3, at which time any PCB Waste (defined at 40 CFR Part 761.3) that is allowed for disposal at a Chemical Waste Landfill will be accepted at the CWU, except that waste containing PCBs at a concentration greater than 500 parts per million (ppm) will not be accepted.
>
> Certified non-Special Waste and non-hazardous Special Waste, including manufactured gas plant (MGP) wastes which exhibit constituent concentrations greater than those listed at 35 III. Adm. Code Part 721.124(b) will be accepted at the CWU. Liquids will not be disposed in the CWU.

(Emphasis added.) Ex. 2 at 10.

> Municipal Solid Waste Unit
>
> The Municipal Solid Waste (MSW) Unit comprises the remainder of Clinton Landfill No. 3. As illustrated on the drawings enclosed separately, a portion of the MSW Unit overlies (or piggybacks) a portion of the CWU. The MSW Unit is considered to be a Municipal Solid Waste Landfill Unit, as defined by 35 Ill. Adm. Code Part 810.103.
>
> Municipal solid waste (household and commercial refuse), construction demolition and debris waste, certified non-Special Waste, non-hazardous Special Waste, and ACWM will be accepted at the MSW Unit. . . .

Ex. 2, CLI Mod 9 Application at 11.

> SECTION 812.306 — DESIGN OF THE LINER SYSTEM
>
> The approved permit application previously submitted under Log No. 2005-070 provided documentation that the MSW Unit liner system meets the requirements provided at 35 Ill. Adm. Code Part 811.306. Included with that application were cross-sections and plan views of the liner system, the results of tests

performed on the earth and geosynthetic liner materials, and specifications for the geosynthetic liner materials. The specifications include a description of the construction methods and equipment to be utilized, physical properties of the materials to be used in liner construction and a description of the methods to be used to seam the geomembranes. The CQA Plan included in the approved permit application provided diagrams and supporting documentation showing that the test liner will be constructed and evaluated in accordance with 35 Ill. Adm. Code Part 811.507(a). In addition, CLI submitted to the IEPA a Test Liner CQA Acceptance Report for the test liner that was constructed for Clinton Landfill No. 3. That document, assigned Log No. 2007-119, provided a detailed description of the test liner that was constructed for Clinton Landfill No. 3.

CLI is proposing modifications to the portion of the liner system which will be constructed within the CWU. These modifications are described in Shaw's Design Report, provided as Attachment 2 to this application. Shaw's Design Report includes plan views of the revised liner system, a plan showing the proposed layout of individual geomembrane panels, cross-sections and details of the CWU liner system, and the remaining documentation required by 35 Ill. Adm. Code Part 811.306. The cross-sections and details of the MSW Unit liner system remain unchanged from those provided in the approved permit application submitted under Log No. 2005-070.

Revisions to the geomembrane and composite drainage layer specifications are proposed to reflect the use of textured geomembrane throughout the floor of the CWU and the use of a composite drainage layer as the CWU redundant leachate drainage layer. Proposed revised geomembrane specifications are provided in Attachment 7; proposed revised composite drainage layer specifications are provided in Attachment 8. No revisions are required for the remaining previously approved specifications, nor for the previously approved CQA Plan.

(Emphasis added.) Ex. 2 at 30-31.

In sum, the facts amply demonstrate that CLI's chemical waste landfill went well beyond the scope of the local siting approval granted by the DeWitt County Board for CLI's MSWLF. The only remaining question is what the legal effect CLI's unlawful modification has. Based on CLI's failure to comply with the local siting requirements in Section 39.2 for new pollution control facilities, the IEPA did not have jurisdiction under Section 39(c) to issue Mod 9 and therefore Mod 9 is void. *See e.g. Clarke and Pioneering Processing v. Illinois EPA*, (Slip Op. March 22, 1985) PCB 84-150, at 6 (Board found IEPA-issued permit void).

b. An Agency decision made without jurisdiction is void and can be attacked at any time.

In *Bus. & Prof'l People for Pub. Interest v. Illinois Commerce Comm'n*, 136 Ill. 2d 192, 243 (1989), the Illinois Supreme Court did a comprehensive analysis of government agency jurisdiction stating that an agency only has the authorization given to it by the legislature through the statutes. Consequently, to the extent an agency acts outside its statutory authority, it acts without jurisdiction. *Id.* The term "jurisdiction," while not strictly applicable to an administrative body, may be employed to designate the authority of the administrative body to act. *Id.* Thus, in administrative law, the term "jurisdiction" has three aspects: (1) personal jurisdiction-the agency's authority over the parties and intervenors involved in the proceedings, (2) subject matter jurisdiction-the agency's power to hear and determine causes of the general class of cases to which the particular case belongs and (3) an agency's scope of authority under the statutes. *Id.*

Further, a decision by an agency which lacks the statutory power to enter the decision is treated the same as a decision by an agency which lacks personal or subject matter jurisdiction - **the decisions are void**. (Emphasis added.) *Bus. & Prof'l People for Pub. Interest* at 243. Moreover, "jurisdiction" and "authority" have been used interchangeably in certain administrative law contexts and the term "jurisdiction" may be employed to designate the authority of the administrative body to act. *Id.* at 244. The Illinois Supreme Court acknowledged that, theoretically, anytime an agency makes an erroneous decision, it acts without statutory authority because the legislature and the statutes do not give an agency the power to make erroneous decisions. *Id.* citing *Newkirk v. Bigard,* 109 Ill.2d 28, 39 ("A party could merely point to any provision of a statute which was not complied with and claim that the agency did not have authority to act unless the provision was complied with"). However, the Court indicated that it was confident that a reviewing court can make the appropriate distinction between an erroneous

decision and one which lacks statutory authority. *Bus. & Prof'l People for Pub. Interest* at 245.

Significantly, a decision rendered by an administrative agency which lacks jurisdiction over the parties or the subject matter, or which lacks the inherent power to make or enter the decision involved, is void and may be attacked at any time or in any court, either directly or collaterally. *Bd. of Educ. of City of Chicago v. Bd. of Trustees of Pub. Sch. Teachers' Pension & Ret. Fund of Chicago*, 395 Ill. App. 3d 735, 739 (1st Dist., 2009) citing *City of Chicago v. Fair Employment Practices Comm'n,* 65 Ill.2d 108, 112–13 (1976).

A review of the applicable law and pertinent facts at issue here demonstrates that CLI did not have the requisite local siting approval for the CWU when it applied to the IEPA for Mod 9. Therefore the Mod 9 and any other permits including the CWU are void and CLI's request for a stay should be denied.

c. The Supreme Court's analysis of the roles of local government and IEPA in the permitting of "new pollution control facilities."

The Illinois Supreme Court has analyzed the roles that local governments and the IEPA play in the approval process for new pollution control facilities. *M.I.G. Investments, Inc.* at 398. In 1981, the Act was amended "to place decisions regarding the sites for landfills with local authorities and to avoid having a regional authority (the IEPA) in a position to impose its approval of a landfill site on an objecting local authority." *Id.* at 398. The amendment provided that local county boards must determine whether a landfill applicant meets certain statutory criteria set out in section 39.2 of the Act *Id.*

Section 39(c) of the Act prohibits the IEPA from granting a permit for the development or construction of a new pollution control facility unless the applicant submits proof that the facility has been approved by the local government under section 39.2. *M.I.G. Investments, Inc.*

at 399. The legislature amended the Act in 1981 to give local governmental authorities a voice in landfill decisions that affect them and "based on the definition for a new pollution control facility, it was clear that the legislature intended to invest local governments with the right to assess not merely the location of proposed landfills, but also **the impact of alterations in the scope and nature of previously permitted landfill facilities**." (Emphasis added.) *Id.* at 400. Further, an interpretation that narrowly construes the definition of a new pollution control facility under Section 3.330 of the Act would be inconsistent with section 2(c) of the Act, which provides that "the terms and provisions of this Act shall be liberally construed so as to effectuate the purposes of this Act." *Id.* Finally, the Supreme Court noted further that the stated purpose of the Act, set out in Section 2(b), is "to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them." *Id.*

In the Board's decision in *M.I.G.*, which was affirmed by the Supreme Court, the Board noted that a vertical expansion of the MIG landfill could impact the Section 39.2 local siting criteria. *M.I.G. Investments, Inc. v. I.E.P.A.*, at 8 (Slip Op. August 15, 1985) PCB 85-60. In affirming the Board's decision, the Illinois Supreme Court continued that analysis in its *M.I.G.* decision noting:

> To expand the boundaries of a landfill, whether vertically or laterally, in effect, increases its capacity to accept and dispose of waste. An increase in the amount of waste contained in a facility will surely have an impact on the criteria set out in section 39.2(a), which local governmental authorities are to consider in assessing the propriety of establishing a new pollution control facility. Indeed, adjusting the dimensions of a landfill facility to increase the amount of waste stored will surely have an impact on "the danger to the surrounding area from fire, spills or other operational accidents" and "the character of the surrounding area." Ill. Rev. Stat. 1985, ch. 111 ½, pars. 1039.2(a)(v), (iii).

M.I.G. Investments, Inc. at 401. Both Illinois courts and the Board have established the central part of the review of whether the IEPA can issue a permit under Section 39(c) of the Act is whether or not the County Board's consideration of the Section 39.2 local siting criteria substantially changed from the local siting approval to the permit application.

d. The Board has consistently held that new local siting approval is needed when a permit application makes substantial changes to the facility's previously approved nature, scope, or design.

After the Supreme Court decided *M.I.G. Investments, Inc.*, the Board had occasion to review cases involving the roles that local governments and the IEPA play in the approval process for new pollution control facilities. *See e.g. Saline County Landfill v. IEPA,* (Slip Op., May 16, 2002) PCB 02-108; *Village of Robbins. v. IEPA*, (Slip Op., September 16, 2004) PCB 2004-048; and *United Disposal of Bradley v. IEPA,* (Slip Op., June 17, 2004) PCB 03-235.

i. Saline County Landfill

In *Saline County Landfill,* the Board stated that the issue to be determined was whether the petitioner had "demonstrated that there is no reasonable likelihood that eliminating the interior separation berm would **substantially alter the nature and scope of the expansion approved by the County Board in 1996"**. (Emphasis added.) *Saline County Landfill v. IEPA, and County of Saline Intervenor*, at 9 (Slip Op., May 16, 2002) PCB 02-108. The Board further stated that if there is **a reasonable likelihood** that the change would so alter the project, then the change is outside of the siting approval and the requested permit would therefore violate Section 39(c). (Emphasis added.) *Id.* citing *M.I.G. Investments, Inc. v. IEPA*, 122 Ill. 2d 392, 400 (1988).

The pertinent facts in *Saline County* involved the issue of whether eliminating an interior berm changed the character of the Saline County landfill that was approved for local siting as follows:

> Under SCLI's requested permit, waste would be placed in the airspace once designated for the interior separation berm. This waste would therefore be placed beyond the interior southern edge of the lateral expansion's waste footprint. However, this waste would be, as the berm would have been, under the single mound of the landfill, and there would be no increase to the vertical expansion approved at local siting. The waste in the berm airspace also would be entirely within the exterior boundary of the lateral expansion and the rest of the landfill. **Indeed, as proposed in the permit application, the lateral expansion would be of smaller acreage than approved at siting, and the expansion's overall waste capacity would be almost 300,000 cubic yards less.**

(Emphasis added.) *Saline County Landfill* at 11.

In this case, CLI's rationale for failing to obtain local siting approval for its design change – construction of the chemical waste landfill within the boundaries of CL3 – was rejected by the Board in *Saline County Landfill*. In *Saline County Landfill*, there was a contention that "any design change that does not exceed the waste boundaries of the facility, as sited, would not require additional proof of local siting approval." *Saline County Landfill* at 16. In rejecting this argument, the Board explained:

> The applicable case law, however, discussed above, holds that **the local siting authority considers not only the location of a proposed landfill expansion, but also its design**. *See M.I.G.*; *see also City of East Peoria v. PCB*, 117 Ill. App. 3d 673, 679 (3d Dist. 1983) (the Act "unambiguously requires the county board to consider the public health ramifications of the sanitary landfill's design at a given site"); *Kane County Defenders, Inc. v. PCB*, 139 Ill. App. 3d 588 (2d Dist. 1985). **An expansion's design, proposed in a development permit application, that substantially differs from the design proposed at siting could happen to fall within the waste boundaries approved by the local government.** As the Board stated in it April 18, 2002 order, however, **"[i]f an applicant were allowed to substantially change its landfill design between siting approval and permitting, without reapplying for siting approval, the Section 39.2 design criterion could be rendered meaningless."** *Saline County Landfill*, PCB 02-108, slip op. at 16.

(Emphasis added.) *Saline County Landfill* at 16.

Ultimately in *Saline County Landfill*, the Board affirmed the IEPA denial of the requested permit, finding that there was a reasonable likelihood that the design change resulting in the

permit denial would substantially alter the nature and scope of the sited expansion, particularly as assessed against the design criterion of Section 39.2. *Saline County Landfill* at 13.

ii. *Village of Robbins*

In *Village of Robbins and Allied Waste Transportation, Inc. v. IEPA*, the Board again reviewed a permit denial where the petitioner attempted to obtain a permit that went beyond what the local siting approval provided. *See* (Slip Op. September 16, 2004) PCB 04-48. The Village of Robbins and Allied Waste Transportation, Inc. appealed the IEPA's denial of their requested modification of a permit to allow them to develop and operate a recycling and waste transfer facility. *Id.* at 1. The IEPA's denial was based on the petitioners' failure to submit sufficient documentation demonstrating that the facility had obtained Section 39.2 local siting approval. *Id.*

The underlying facts of the case were that in 1993, the Village of Robbins issued an ordinance approving the application of Robbins Resource Recovery Company for a regional pollution control facility. *Village of Robbins* at 8. The ordinance specifically defined the pollution control facility that was sited as a "waste-to-energy facility." *Id.* The ordinance specifically provided that the purpose of the facility, as proposed in the siting application, was to generate electricity from the combustion of municipal waste without making any reference to being used as a transfer station. *Id.*

The Board found that the ordinance granted "siting approval for a waste-to-energy facility, not a waste transfer station." *Village of Robbins* at 9. Further, the Board stated "[a]lthough the permits indicate that the sited waste-to-energy facility did have transfer station components, the change sought by the petitioners is not a mere change in condition; **but a wholesale change in the very type of facility contemplated.**" (Emphasis added.) *Id.* The Board

found that the facts in the situation in *Village of Robbins* was similar to those reviewed by it in *United Disposal of Bradley v. IEPA*, PCB 03-235 (June 17, 2004), *affirmed* in *United Disposal of Bradley, Inc. v. Pollution Control Bd.*, 363 Ill. App. 3d 243 (3d Dist. 2006). *Id.* The Board found that in *Robbins* and *United Disposal* that "the nature of the change that the petitioners were seeking may impact the criteria considered in determining whether to site or re-site a pollution control facility." *Id.* Significantly, the Board held that **"to allow the use of Section 39.2(e-5) in this context would deprive members of the public an opportunity to participate in the local siting process."** (Emphasis added.) *Id.*

In United Disposal the Board held that even a requested expansion of the service area limits of Petitioner's existing waste transfer facility "may impact the criteria a local siting authority considers in determining whether to site, or re-site, a pollution control facility." *United Disposal of Bradley* at 19. The Board concluded by stating that it would "not deprive the local siting authority of its statutory right and obligation to review the service area expansion under the procedures of Section 39.2 of the Act." *Id.*

Based on Supreme Court's decision in *M.I.G. Investments*, and the Board's decisions in *Saline County Landfill* and *Village of Robbins*, it is clear that a facility like CLI's CWU that goes well beyond the scope and nature of the original local siting approval for the MSWLF becomes a new pollution control facility and requires local siting review and approval before issuance of a permit. Further, granting a permit, notwithstanding CLI's failure to acquire or even seek siting approval, would violate Section 39(c) of the Act. *See United Disposal of Bradley, Inc. v. Pollution Control Bd.*, 363 Ill. App. 3d 243, 251 (3rd Dist. 2006). Moreover, because CLI failed to obtain local siting approval from the DeWitt County Board for its CWU, the IEPA did not have jurisdiction to review and grant CLI's Mod 9 application. Consequently, Mod 9 and any

subsequent permits authorizing the CWU are void. Accordingly, a stay under these circumstances is wholly unwarranted.

e. Applying the Board's longstanding approach to CLI's Mod 9 shows that CLI did not establish local siting approval and the IEPA's issuance of Mod 47 was appropriate.

The IEPA initiated Mod 47 pursuant to Section 813.201(b)(1) stating, "[s]ince issuing Permit Modification No. 9, the Agency has received information indicating that the necessary local siting approval has not been granted for the modifications in Permit Modification No. 9." Petition, Ex. A, Cover Letter, p. 1. As stated above, the information referenced in Mod 47 was obtained from the DeWitt County Board on July 24, 2014. Based on the Board's longstanding approach discussed above, CLI should have obtained local siting approval for Mod 9, because the proposed CWU substantially differed from the design for CL3 proposed and conditionally approved by the DeWitt County Board in 2002. Therefore, CLI has failed to meet the sufficiency requirement and Section 10-65(b) does not apply.

3. Neither Mod 47 nor Mod 9 was an "application for the renewal of a license" or a "new license with reference to any activity of a continuing nature."

CLI has also failed to establish the necessary requirement in Section 10-65(b) that the application at issue was an "application for the renewal of a license" or a "new license with reference to any activity of a continuing nature." As established in Section II.A.1 of this Response, the IEPA-initiated Mod 47 did not involve an "application for a new license". Similarly, CLI's application for Mod 9 was not an application for the "renewal of a license." Rather, in Mod 9 CLI was seeking a permit for the first time for a chemical waste landfill. Ex. 2 at 10 (The "CWU is considered to be a chemical waste landfill").

A review of CLI's Mod 9 application further demonstrates that CLI substantially changed

the nature and character of the MSWLF that the DeWitt County Board approved in 2002, including, among other things, a redesigned liner and leachate drainage collection system that meets the requirements for a hazardous waste landfill. Ex. 2 at 8 and Section II.A.2.a.i.(2) of this Response.

Accordingly, CLI's application to the IEPA for Mod 9 was neither an "application for a renewal of a license" nor an "application for a new license with reference to any activity of a continuing nature". 5 ILCS 100/10-65(b) (2012). The application for Mod 9 was for a new type of landfill, a chemical waste landfill, approval for which is not mentioned anywhere in the DeWitt County Board's Certification of Siting Approval for CL3, which approved a MSWLF. Petition, Ex. B. Therefore, CLI's Mod 9 application was not for "any activity of a continuing nature."

In sum, an analysis of the plain language of Section 10-65(b) unambiguously demonstrates that it is inapplicable to the IEPA-initiated Mod 47, and CLI's Mod 9 application. CLI failed to establish the necessary requirements in Section 10-65(b) that the application at issue was an "application for the renewal of a license" or a "new license with reference to any activity of a continuing nature". Consequently, the Board must deny CLI's request for a stay.

B. This Board has held that the landfill permitting procedures under the Act and Board Regulations were in place prior to July 1, 1977, and therefore the Administrative Procedures Act does not apply.

CLI cites three cases in support of its Motion. None of those cases dealt with landfill permits. Indeed, the only opinion which Respondent is aware of that addresses the applicability of the APA and the grandfather provision found in Section 1-5 of the APA, 5 ILCS 100/1-5, is *Waste Management, Inc. v. Illinois Environmental Protection Agency*, (Slip Op. October 1, 1984) PCB 84-45, 84-61, 84-68 (consolidated). While there have been some waste disposal cases

that have reviewed whether the elements of Section 10-65(b) have been met by a petitioner seeking a stay of conditions, those cases ignore the threshold question addressed by the Appellate Court in *Borg-Warner* as to whether the APA applies in its entirety to the permit review. *See e.g. Community Landfill Company and City of Morris v. IEPA,* (Slip Op. Oct. 19, 2000) PCB 01-48, 01-49 (declining to address whether the application was timely under Section 10-65(b) of the APA); *see also Motor Oils Refining Company, Inc. v. IEPA,* at 2, (Slip Op. Aug.10, 1989) PCB 89-116 (finding that the application was not timely and the automatic stay provision of Section 16(b)[4] was not applicable).

This case is patently different from those cited by CLI in its Motion. Petition at 8-9.[5] This case involves the permitting of a landfill and is not based on a federal statute like the National Pollutant Discharge Elimination System ("NPDES") program or the Clean Air Act Permit Program ("CAAPP"). Unlike the NPDES permits at issue in B*org-Warner* and *Peoria Disposal*, and the CAAPP permit in *AmerenEnergy*, landfills were required to have permits pursuant to Section 21(e)[6] of the Act as of July 1, 1970.[7]

In *Waste Management, Inc. v. Illinois Environmental Protection Agency*, (Slip Op. October 1, 1984) PCB 84-45, 84-61, 84-68 (consolidated), the petitioner challenged, among other things, multiple conditions of its landfill permit on the grounds of lack of compliance with the APA. In its analysis, the Board recognized that "Title V of the Illinois Environmental Protection Act has, since its inception in 1970, established a regulatory and permitting system for the disposal of waste." *Id.* at 8. The Board noted that:

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[4] Section 16(b) of the APA is an earlier version of the automatic stay provision now found in Section 10-65(b) of the APA.

[5] CLI cites the following three cases: 1) *Borg-Warner v. Mauzy*, 100 Ill. App. 3d 862, 870-71 (3rd Dist. 1981); 2) *AmerenEnergy Generating Company v. Illinois Environmental Protection Agency,* (Slip Op., February 16, 2006) PCB 06-67 (CAAPP – Permit Appeal); and 3) *Peoria Disposal Company v. Illinois Environmental Protection Agency,* (Slip Op., November 21, 2013) PCB 14-28 (NPDES – Permit Appeal).

[6] Section 21(e) is the predecessor to the current Section 21(d), which requires a permit to operate a landfill.

[7] The Environmental Protection Act was created by Public Act 76-2429 and became effective on July 1, 1970.

> Section 22 specifies the Board's authority to adopt regulations concerning waste disposal, in accordance with Title VII of the Act, while Section 21(d) of the Act requires a permit for waste disposal operations. In 1973, pursuant to the predecessor of what is now Section 21(d), the Board adopted rules governing waste disposal in a proceeding entitled *In the Matter of Chapter 7: Solid Waste Rules and Regulations*, 8 PCB 659 (July 31, 1973). These regulations, codified as 35 Ill. Adm. Code Part 807, have remained virtually unchanged since their adoption.

Id. at 11. *See also Vill. of S. Elgin, Kane County v. Waste Mgmt. of Illinois, Inc.*, 62 Ill. App. 3d 815, 819-20 (2d Dist., 1978) (discussing the Act and Board procedural rules for challenging landfill permits that were in effect prior to July 1, 1977). Significantly, in its consideration of the APA within the landfill permitting scheme, the Board rejected the petitioner's arguments concerning the applicability of the APA:

> WMI has also challenged multiple conditions of this permit on grounds of lack of compliance with the Illinois Administrative Procedure Act. These arguments are rejected, as 1) the procedures for permitting under Chapter 7 were in existence in 1973, long before the July 1, 1977 applicability 'grandfather clause' of Section 2 of the IAPA,[8] and 2) the Act has never by reference expressly adopted the IAPA. (See Borg-Warner v. Mauzy, 100 III. App. 3d 862, 427 N.E.2d 415 (1981).)

Waste Management at 17. This is further confirmed in the *AmerenEnergy* case cited by CLI, wherein the Board definitively states that it had procedures in place prior to July 1, 1977 for permit appeals and contested cases:

> The Act and General Procedural Rules: 1970-74
>
> The Environmental Protection Act became effective in July 1970. Three months

[8] Section 2 of the APA has been renumbered as Section 1-5 of the APA, 5 ILCS 100/1-5, and provides, in relevant part, as follows:

> (a) This Act applies to every agency as defined in this Act. Beginning January 1, 1978, in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. **If, however, an agency . . . has existing procedures on July 1, 1977, specifically for contested cases or licensing, those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provisions of this Act.** Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, those procedures shall remain in effect. (Emphasis added).

> later the Board adopted its first set of procedural rules, including rules for the conduct of contested cases and specific permit appeal rules. Procedural Rules, R70-4 (Oct. 8, 1970). As of July 1, 1977, the version of the procedural rules in effect was an updated version adopted in 1974. Revised Procedural Rules of the Pollution Control Board, R73-4 (Oct. 10, 1974).

AmerenEnergy at 2.

As noted above, CLI does not present any argument for the proposition that Section 10-65(b) is applicable here. The cases cited by CLI do not support the issuance of an automatic stay in this landfill permit case brought under Section 40 of the Act, 415 ILCS 5/40. Instead, CLI focuses its argument on the "final agency decision" referenced in Section 10-65(b) and contending that it refers to the Board's final decision in this case, not the IEPA's decision to issue Mod 47. Petition at 8, citing *Borg-Warner* at 870-871. Further, CLI contends that "until the Board rules on a petitioner's request for review, the relevant license is automatically stayed." Petition at 8-9, citing *AmerenEnergy* and *Peoria Disposal*. These cases are inapposite.

The first case cited by CLI is *Borg-Warner*. This case involves a petitioner that sought renewal of its NPDES permit. The Appellate Court conducted a thorough review of whether the state NPDES rules and regulations pre-dated the July 1, 1977 deadline found in the Applicability Section of the APA (Section 2), Ill. Rev. Stat. 1977, ch. 127, par. 1002.[9] The court found that "since there existed no effective Illinois procedures for handling NPDES permits as of July 1, 1977, the provisions of the Illinois APA are applicable."[10] *Borg-Warner* at 865.

In *AmerenEnergy*, the Board analyzed whether a new permit issued under the CAAPP is subject to the automatic stay found in Section 10-65(b). After consideration of the *Borg-Warner*

[9] The APA has been renumbered and the Applicability Section is now found in Section 1-5 of the APA, 5 ILCS 100/1-5.

[10] The *Borg-Warner* court found that the Board's Rules and Regulations on Water Pollution (Rules 901-916) were adopted by the Board in 1974, but by their own terms they did not become effective unit "the date when the Board files with the Secretary of State a copy of the letter approving the Illinois NPDES program by the Administrator of the U.S. EPA pursuant to Section 402(b) of the Federal Water Pollution Control Act." The letter of approval was not filed with the Secretary of State until October, 1977. *Borg-Warner* at 865.

holding for NPDES permits, the Board undertook a similar analysis of when the procedural rules for CAAPP permits became effective in relation to the July 1, 1977 deadline found in the Applicability Section of the APA. Like the NPDES program in *Borg-Warner*, the Board found that "the General Assembly did not create the CAAPP program until 1992." The Board's specific procedural rules for CAAPP appeals were not adopted and effective until March 18, 1994. *AmerenEnergy* at pg. 7. The Board determined that the APA's automatic stay provision was applicable to CAAPP permit review cases.

In *Peoria Disposal*, the Board granted Peoria Disposal's request for an automatic stay under Section 10-65(b) of the APA, 5 ILCS 100/10-65(b), for its renewal NPDES permit based solely on *Borg-Warner*, *AmerenEnergy*, and significantly the absence of any response to the motion to stay.

Accordingly, the stay referenced in Section 10-65(b) of the APA as it applies to this landfill case is unavailable, since there were landfill permitting and review procedures in place prior to July 1, 1977, as detailed in the landfill permitting case of *Waste Management*, unlike the NPDES and CAAPP permits at issue in *Borg-Warner*, *AmerenEnergy*, and *Peoria Disposal*. CLI offers no basis for why the Board should ignore the direct holding in *Waste Management*.

C. CLI has not sought a discretionary stay in this matter and Respondent reserves the right to respond should CLI renew its Motion to Stay under an alternate theory.

Although the Section 10-65(b) of the APA subjects certain permits in their entirety to an automatic stay during appeals, a petitioner may choose not to avail itself of this stay and instead ask that the Board stay only the contested conditions of the permit. *Will Scarlet Properties, L.L.C., v. Illinois Environmental Protection Agency*, 2013 WL 6831682, 1 (Slip Op. December 19, 2013, PCB 14-25, citing *Community Landfill Co. and City of Morris v. IEPA*, PCB 01-48,

PCB 01-49 (consol.) (Oct. 19, 2000); See also, e.g., *Hartford Working Group v. IEPA*, PCB 05-74, slip op. at 1 (Nov. 18, 2004). However, here, CLI did not request a discretionary stay of either Mod 47 in its entirety or any of the contested portions of Mod 47; CLI only requested a stay of Mod 47 in its entirety pursuant to Section 10-65 of the APA. Accordingly, the Board should give no consideration to issuing a discretionary stay, as CLI did not request one in its Motion. Should CLI renew its Motion to Stay under an alternate theory, Respondent reserves the right to respond as provided by the Board's procedural rules.

III. CONCLUSION

The Board should deny CLI's Motion as a matter of law, because:

1. The plain language of Section 10-65(b) of the APA does not apply to Mod 47 - an IEPA-initiated permit modification.

2. CLI has not met the requirements for a Section 10-65(b) stay because its application for the Chemical Waste landfill (Mod 9) was not "sufficient"; CLI failed to show that it had obtained local siting approval for the chemical waste landfill;

3. CLI has not met the requirements for a Section 10-65(b) stay because its application for the Chemical Waste landfill (Mod 9) was not an "application for the renewal of a license" or a "new license with reference to any activity of a continuing nature"; CLI's Mod 9 application sought a permit for a new type of landfill, a chemical waste landfill, which is not mentioned anywhere in the DeWitt County Board's Certification of Siting Approval for CL3, which approved a MSWLF.

4. Section 1-5 of the APA, sets forth a grandfather provision for agency procedures that were in place prior to July 1, 1977 when the APA became effective. The Act and Board regulations provided procedures for landfill permitting and review prior to July 1, 1977 and, as

this Board has held pursuant to Section 1-5, the APA is not applicable to this landfill permit review case.

5. Finally, CLI has not sought a discretionary stay and therefore the Board should not consider granting one.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECION AGENCY

By LISA MADIGAN
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DATE: September 16, 2014

CERTIFICATE OF SERVICE

I, JENNIFER A. VAN WIE, an attorney, do certify that I caused the Appearance of Matthew J. Dunn and Respondent's Response in Opposition to Petitioner's Motion for Order Regarding Stay in this matter to be served upon the persons listed in the Service List by electronic mail and/or placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago, Illinois.

Jennifer A. Van Wie

JENNIFER A. VAN WIE

Date: September 16, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

EXHIBIT 1

October 19, 2007 CLI Application Letter and Executive Summary to USEPA

Clinton Landfill, Inc.

October 19, 2007

Ms. Mary Gade
c/o Mr. Tony Martig
Toxics Program Section Chief
USEPA Region V
M/C DT-8J
77 W. Jackson Blvd.
Chicago, IL 60604-3590

RE: Application to Develop and Operate a Chemical Waste Unit Within the Permitted Clinton Landfill No. 3

Dear Ms. Gade:

Pursuant to Section 6(e)(1) of the Toxic Substances Control Act (TSCA) of 1976, Public Law No. 94-469, 15 U.S.C. Section 2605(e)(1), and the federal PCB regulations promulgated thereunder (40 CFR Section 761.75), Clinton Landfill, Inc. (CLI) is submitting three copies of an Application to develop and operate a chemical waste landfill. The chemical waste landfill will be a separate unit, (known as the Chemical Waste Unit) located within the perimeter of the currently permitted Clinton Landfill No. 3 municipal solid waste landfill. This Application includes the Initial Report required by 40 CFR 761.75(c)(1) and other information demonstrating that all applicable State and Federal requirements are satisfied.

Each of the attached copies of the Application comprises 4 volumes bound in 3-ring binders, plus two rolled sets of 30" x 42" drawings (design and geologic). Reduced scale drawings are bound within Volume I of the Application.

If you have any questions regarding the Application or if you require any additional information, please do not hesitate to contact Ron Welk of my staff. He can be reached by telephone at (309)676-4893 x201 or by email at rwelk@pdcarea.com.

Sincerely,

Clinton Landfill, Inc.

Ron L. Edwards
Vice President – Landfill Development and Operations

Attachments: 3 copies of the Application Text, Appendices, and Drawings

cc: Shaw Environmental, Inc.

CERTIFICATE OF DEVIN A. MOOSE, P.E., DEE

This permit application for the proposed Chemical Waste Unit at the Clinton Landfill No. 3 has been prepared under my direction. The application consists of four volumes, containing a Table of Contents, Executive Summary, Sections 1 through 8, reduced Geologic Drawings Nos. G1 through G21, reduced Design Drawings Nos. D1 through D22 and Appendices A through O. Additionally, full size (30" x 42") drawings of the Geologic and Design Drawings have been provided as part of this application. The information presented in this application is, to the best of my knowledge and belief, complete, true and accurate.

Devin A. Moose, P.E., DEE

10/5/07
Date

062-044472
Illinois Professional Engineering License Number
Expires November 30, 2007

DEVIN A. MOOSE
062-044472
REGISTERED
PROFESSIONAL
ENGINEER
STATE OF ILLINOIS

SUBSCRIBED AND SWORN TO
before me this 5th day
of October (date). 2007

NOTARY PUBLIC

"OFFICIAL SEAL"
LORRAINE M. DUNLAP
Notary Public, State of Illinois
My Commission expires 11/20/07

EXECUTIVE SUMMARY

Shaw®

EXECUTIVE SUMMARY

Introduction

Clinton Landfill, Inc. (CLI) owns and operates the Clinton Landfill No. 3, located in DeWitt County, Illinois. The Clinton Landfill No. 3 received a development permit from the Illinois Environmental Agency (IEPA) to develop an approximate 157.50 acre Municipal Solid Waste (MSW) landfill in March 2007 (Permit No. 2005-070-LF).

Pursuant to Section 6(e)(1) of the Toxic Substances Control Act (TSCA) of 1976, Public Law No. 94-469, 15 U.S.C. Section 2605(e)(1), and the federal PCB regulations promulgated thereunder (40 CFR Section 761.75), CLI has prepared the following Application to request approval to modify the design, Construction Quality Assurance (CQA) Plan, Operating Plan, Environmental Monitoring Plan, and other portions of the permitted Clinton Landfill No. 3 to include a Chemical Waste Unit. The reason for this request is to permit the safe acceptance of non-hazardous wastes, including PCB wastes that contain total PCB concentrations no greater than 500 ppm. The proposed Chemical Waste Unit would occupy approximately 22.50 acres of the currently permitted waste disposal area.

The design provided within this application includes the latest landfill design concepts which have been demonstrated to be protective of the environment. Unique to the proposed facility are the number and extent of safeguards employed. In many cases, the stringent design and performance standards contained in state and federal landfill regulations have been exceeded. Additionally, the proposed design works in conjunction with a suitable location and favorable site geology to assure that the public health, safety and welfare will be protected.

Location (Section 1)

The permitted Clinton Landfill No. 3 complies with all applicable federal, state and local site location standards. The proposed Chemical Waste Unit is located within the permitted waste boundary of the IEPA approved landfill and therefore will be in compliance with all applicable federal, state and local site location standards.

Hydrogeology (Section 2)

A succession of low-permeability cohesive soil units (Tiskilwa Formation, Roxana/Robein Silt, Berry Clay, Radnor Till, Vandalia Till, Smithboro Till, Yarmouth Soil, Tilton Till, and Hillary Till) are present beneath the site which will separate the footprint of the proposed Chemical Waste Unit from the regional aquifer. These low permeability cohesive soil units have an average thickness of approximately 200 feet at the site (approximately 170 feet of which will remain between the bottom of the proposed liner invert and the regional Mahomet Sand Aquifer). Field and laboratory test results and field observations indicate that these materials will effectively restrict vertical and horizontal movement of groundwater and will serve as an additional environmental safeguard beneath the proposed Chemical Waste Unit.

The natural clay that is present beneath the site will act as a Tertiary barrier in addition to the proposed robust engineered liner system which is described in detail within Section 3 of this Application.

The hydrogeologic conditions at the site and the landfill design allow a comprehensive groundwater monitoring system to be implemented which will be able to adequately verify, in advance, if groundwater resources are being threatened by the landfill.

Engineered Design (Section 3)

A number of engineered design features have been incorporated into the proposed Chemical Waste Unit in order to safely contain the waste materials placed in it. These containment systems are briefly summarized below:

Composite Liner. The proposed Chemical Waste Unit includes a multiple layer composite liner system. From the subgrade up across the entire unit, the liner will, at a minimum, consist of 3 feet of recompacted clay ($1x10^{-7}$ cm/sec), a 60-mil geomembrane, a geocomposite drainage layer, a second 60-mil geomembrane. In addition, CLI has added a geosynthetic clay liner (GCL), and a third 60-mil HDPE geomembrane above the floor and lower portions of the landfill sidewalls. This liner system greatly exceeds the requirements of the United States Environmental Protection Agency (USEPA) and has been accepted by the Illinois IEPA and other experts in the landfill field as providing a high level of environmental safety. The multiple layer composite liner system will effectively prevent the release of potential hazards from the Chemical Waste Unit.

Leachate Collection. A leachate drainage/collection system will be constructed on the bottom of the landfill to quickly remove leachate from the landfill. The primary leachate drainage/ collection system includes a highly permeable drainage layer (land on the floor and geonet on the sidewalls) to transmit leachate to a series of high-strength plastic pipes placed at intervals on the bottom liner. The permeability of the leachate drainage material is 30 times greater than applicable requirements thereby effectively minimizing the hydraulic head on the liner system. In addition, a redundant leachate drainage/collection system has also been included within the proposed liner system design directly beneath the primary liner system in order to provide additional leachate removal capabilities if necessary. The primary and redundant leachate drainage/collection systems will rapidly transmit leachate to collection sumps from which the leachate will be extracted from the landfill using automatically controlled pumps.

Final Cover. Upon the Chemical Waste Unit being filled to its intended height, it will be overlain by Municipal Solid Waste to achieve the final proposed grades and a final cover system will be constructed to cap the waste. The primary purpose of the final cover is to prevent rainwater from entering the landfill and coming into contact with waste and producing leachate. The final cover system that will cap the landfill consists of a low-permeability layer to prevent precipitation from entering the landfill, a subsurface drainage layer to ensure final cover stability and virtually eliminate hydraulic head on the low permeability layer, and a protective soil layer to prevent erosion and maintain the long-term integrity of the cap.

The low-permeability layer will include a 40-mil HDPE geomembrane (double-sided textured on slopes greater than 5H:1V) and a one foot thick compacted cohesive soil layer with a maximum permeability of 1×10^{-7} cm/sec. A geocomposite drainage layer will overlay the geomembrane to drain precipitation away from the low-permeability layer. The protective soil layer will be placed over the geocomposite and will include a minimum of three (3) feet of protective soil, with the upper six (6) inches being a vegetative layer. To facilitate drainage and minimize erosion, the slope of the final cover will be a maximum of 4H:1V and a minimum of 5 percent. The final slopes of the landfill will be vegetated and will incorporate drainage terraces to effectively control erosion.

Groundwater Impact Assessment (GIA). Extensive contaminant transport computer modeling was performed for the permitted landfill that was approved by the IEPA. The results of the computer model demonstrate that this site is protective of the public health, welfare, and

safety due to the excellent hydrogeologic characteristics of the site used in combination with the landfill liner design.

The GIA included many conservative assumptions in the analysis 10.7 feet of leachate head on the oliner, and flaws (i.e. holes) in the geomembrane. Furthermore, a single-composite liner system was modeled. The proposed multiple-layer composite liner and leachate drainage/collection system will be even more protective as it will virtually eliminate any hydraulic head on, and thus impingement into, the liner system.

Stormwater Management (Section 4)

A stormwater management system has been permitted for the Clinton Landfill No. 3 and will be constructed to control and manage precipitation that falls onto the landfill. This system has been updated and calculations have been revised to include the proposed Chemical Waste Unit. The purpose of this system is to: protect the final cover against erosion; to divert rainwater away from waste materials in the active landfill areas; eliminate the potential for flooding; and to improve the water quality conditions of the site. All ditches and basins are adequately sized.

The stormwater management system includes:

- Perimeter ditches around the landfill to collect storm runoff,
- Interim ditches to collect storm runoff from the Chemical Waste Unit intermediate slope prior to filling of the separation area with Municipal Solid Waste,
- Detention basins to detain and control the release of the 100-year, 24-hour flood event which exceeds the state regulations to control the 25-year, 24-hour flood event, to facilitate sedimentation, and to improve water quality,
- A stage outlet structure with a restrictor to reduce the discharge rate to adjacent watersheds,
- A valved outlet structure that will only be opened once the detained stormwater has been cleared of sediment, and
- Terrace berming on the final landform slopes to reduce the potential for erosion.

Construction Quality Assurance Program (Section 5)

The purpose of the Construction Quality Assurance (CQA) program is to assure that landfill design features (such as the composite liner) are constructed as specified. The CQA program includes oversight during construction, testing of construction materials, and documentation of all inspection and testing activities. A third-party licensed professional engineer must certify that the constructed features at the landfill meet or exceed design standards. The CQA Plan is provided in Section 5.

Operating Plan (Section 6)

The purpose of the Operating Plan is to assure that the proper procedures are followed for waste disposal operations at the proposed Chemical Waste Unit, and for maintenance and monitoring of the engineered systems at the facility. The proposed Chemical Waste Unit would not except waste with total PCB concentrations greater than 500 ppm. Detailed testing of the proposed waste will occur prior to waste acceptance. Training and safety procedures will continue to be employed to make the landfill a safe workplace for employees and the community. Contingency plans exist at the site in order to halt or modify landfill operations in the event of natural disasters or other emergencies.

Environmental Monitoring (Section 7)

A comprehensive environmental monitoring program has been designed for the proposed Clinton Landfill No. 3 Chemical Waste Unit to serve as an additional safeguard in order to:

1. Monitor groundwater, surface water, and ambient air quality at the facility,
2. Verify that the landfill design is functioning as intended, and
3. Provide an early warning system in the unlikely event of a release.

The environmental monitoring program consists of the following systems: (1) groundwater monitoring, (2) leachate monitoring, (3) surface water monitoring, and (4) ambient air monitoring.

All monitoring will follow strict quality control, quality assurance and chain of custody procedures. This environmental monitoring program will verify that the facility design and construction are properly functioning to protect the public health, safety and welfare.

Closure and Post-Closure Care Plan (Section 8)

A Closure and Post-Closure Care Plan has been developed for the proposed Clinton Landfill No. 3 Chemical Waste Unit. The closure and post-closure care plan provides a list of steps that Clinton Landfill, Inc. will perform to ensure proper closure of the facility along with providing continued maintenance of the facility during the post-closure care period. A cost estimate was prepared utilizing conservative third party costs to ensure that proper funding is provided during the operating and closure periods of the unit.

Post-Closure Care of the Chemical Waste Unit will continue perpetually. Financial assurance will be provided to the USEPA prior to waste acceptance in the proposed Chemical Waste Unit. The amount of financial assurance will total the costs required to complete all remaining closure activities, and to properly monitor and maintain the facility for 30 years following closure. Following closure, financial assurance will be perpetually maintained to provide post-closure care for a 30 year period. The Closure and Post-Closure Care Plan is provided in Section 8.

Conclusion

This Application proposes a modern design that utilizes multiple back-up systems, an Operating Plan, an Environmental Monitoring Plan, and a Closure/Post-Closure Care Plan to properly manage TSCA-regulated PCB wastes with total PCB concentrations no greater than 500 ppm. The new Chemical Waste Unit would be located within the permitted boundaries of the previously permitted Clinton Landfill No. 3. The proposed Chemical Waste Unit would occupy approximately 22.50 acres of the currently permitted facility.

In addition to conforming with all applicable regulations, the modified design provided within this application includes the latest landfill design concepts with multiple redundant systems that has been demonstrated to be effective at other facilities and shown to be protective of the environment. Unique to the proposed facility, however, is the number and extent of safeguards employed. In many cases, the stringent design and performance standards contained in state and federal landfill regulations have been exceeded. Additionally, the facility design works in conjunction with a suitable location and favorable site geology to assure that the public health, safety and welfare will be protected.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

EXHIBIT 2

February 1, 2008 CLI Modification #9 Application (partial)

PDC Technical Services, Inc.

February 1, 2008

PDC Project No. 91-118

Mr. Stephen F. Nightingale, P.E.
Manager, Solid Waste Branch
Bureau of Land – Permit Section
Illinois Environmental Protection Agency
1021 North Grand Avenue
P.O. Box 19276
Springfield, Illinois 62794-9276

Re: **Significant Modification Application**
0390055036 – DeWitt County
Clinton Landfill No. 3
Permit No. 2005-070-LF
Permit File

Dear Mr. Nightingale:

On behalf of Clinton Landfill, Inc. (CLI), PDC Technical Services, Inc. is submitting a significant modification application to the subject permit. The attached application comprises the following items:

1. IEPA application forms with original signatures:
   - ☐ General Application for Permit (LPC-PA1),
   - ☐ Notice of Application for Permit to Manage Waste (LPC-PA16) and list of officials (Notification Verification) to whom LPC-PA16 forms were delivered, and
   - ☐ Certification of Authenticity of Official Forms,
2. Four copies of the application text, calculations, etc., which are provided in 2 volumes, with each volume bound in a 3-ring binder, and
3. Four sets of full-size drawings.

We note that copies of the IEPA application forms are also included with the bound application.

4700 North Sterling Avenue; Peoria, Illinois 61615
P.O. Box 9071, Peoria, Illinois 61612-9071
(309) 676-4893, (Fax) 672-2726

We trust that this application provides the information needed to grant the requested permit. Please call Mr. Ron Edwards (CLI) or the undersigned at 309-676-4893 if you have any questions or comments.

Sincerely,

PDC Technical Services, Inc.
Ill. Professional Design Firm 184-001145

George L. Armstrong, P.E.
Vice President – Engineering and Consulting Services

Enclosures: IEPA Permit Application Forms
Application text, calculations, etc. (4 sets, 2 volumes each)
Drawings (4 sets, rolled)

cc: Ron Edwards
Gary Yaste

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Application for Significant Modification
Permit No. 2005-070

Clinton Landfill No. 3

0390055036 – DeWitt County

Submitted to:

Illinois Environmental Protection Agency
Bureau of Land
1021 N. Grand Avenue East
Springfield, Illinois 62794

Submitted by:

Clinton Landfill, Inc.
4700 North Sterling Avenue
P.O. Box 9071
Peoria, Illinois 61612-9071

February 1, 2008

Volume 1 of 2

Application for Significant Modification
Permit No. 2005-070

Clinton Landfill No. 3

0390055036 – DeWitt County

Submitted to:

Illinois Environmental Protection Agency
Bureau of Land
1021 N. Grand Avenue East
Springfield, Illinois 62794

Submitted by:

Clinton Landfill, Inc.
4700 North Sterling Avenue
P.O. Box 9071
Peoria, Illinois 61612-9071

– February 1, 2008

Volume 1 of 2

TABLE OF CONTENTS
Significant Modification Application
Clinton Landfill No. 3
DeWitt County, Illinois

VOLUME 1

ATTACHMENTS

VOLUME 2

ATTACHMENTS

INTRODUCTION

On behalf of Clinton Landfill, Inc. (CLI), PDC Technical Services, Inc. (PDC) is submitting this application to modify the design and operation of a portion of Clinton Landfill No. 3 (Facility I.D. 0390055036). The design modifications include reconfiguring the southwest approximately 22.5 acres of Clinton Landfill No. 3. The reconfiguration includes adding liner components and a redundant leachate drainage and collection system that comply with the technical requirements of 35 Ill. Adm. Code Part 724.401. The reconfigured area is referred to herein as the Chemical Waste Unit, or CWU. CLI intends to utilize the CWU for disposal of non-hazardous Special Waste and certified non-Special Waste. Additionally, CLI has submitted an application to the United States Environmental Protection Agency (USEPA) to permit the CWU as a Chemical Waste Landfill, as defined at 40 CFR Part 761.3. Upon the USEPA's granting of that permit, CLI intends to accept polychlorinated biphenyl compound (PCB) wastes that are allowed by the USEPA to be disposed in a Chemical Waste Landfill, provided such wastes contain no more than 500 parts per millions (ppm) PCBs.

PERMIT APPLICATION FORMS (812.102 and 812.104)

The following IEPA permit application forms are provided in Attachment 1:

- General Application for Permit (LPC-PA1)
- Notice of Application for Permit to Manage Waste (LPC-PA16) and list of officials to whom LPC-PA16 forms were delivered, and
- Certification of Authenticity of Official Forms.

SECTION 812.105 – APPROVAL BY UNIT OF LOCAL GOVERNMENT

The DeWitt County Board granted local siting approval for Clinton Landfill No. 3 on September 12, 2002. Documentation of the local siting approval was provided to the IEPA with the initial application to develop Clinton Landfill No. 3 (Log No. 2005-070). This application does not propose a new nor an expansion to the currently permitted Clinton Landfill No. 3 and, therefore, local siting approval is not required for this permit modification.

BOL REFERENCE SHEET --- SAME FACILITY

Facility Number:	039 005 5036
Facility Name:	Clinton Landfill 3
USEPA Number:	- N/A -
File Category:	Permits

FOR ADDITIONAL INFORMATION ON THIS, SEE CATEGORY Permits UNDER THIS SAME FILE HEADING.

DATE OF OTHER DOCUMENT	DESCRIPTION OF OTHER DOCUMENT
August 27, 2009	Pages 2 and 3 were revised in the August 27, 2009 addendum and are included in Volume ~~16~~ 17 of this permit package.

SECTION 812.106 – SITE LOCATION MAP

A Site Location Map complying with the requirements of 35 Ill. Adm. Code Part 812.106 was previously submitted to the IEPA under Log No. 2005-070.

SECTION 812.107 – SITE PLAN MAPS

Drawings showing the proposed modifications to the permitted design are provided with the Design Report prepared by Shaw Environmental, Inc (Shaw). The Design Report is provided as Attachment 2 to this application. Full size drawings are enclosed separately.

SECTION 812.108 – NARRATIVE DESCRIPTION OF FACILITY

This section supplements the Narrative Description of Facility that was previously submitted under Log No. 2005-070.

812.108.1 Type of Waste Disposal Unit and Types of Waste Accepted

Chemical Waste Unit

The CWU is considered to be a Chemical Waste Landfill and will accept only non-hazardous chemical waste, as defined by 35 Ill. Adm. Code Part 810.103. Upon approval of the USEPA, the CWU will be regulated by the USEPA as a Chemical Waste Landfill as defined by 40 CFR 761.3, at which time any PCB Waste (defined at 40 CFR Part 761.3) that is allowed for disposal at a Chemical Waste Landfill will be accepted at the CWU, except that waste containing PCBs at a concentration greater than 500 parts per million (ppm) will not be accepted..

Certified non-Special Waste and non-hazardous Special Waste, including manufactured gas plant (MGP) wastes which exhibit constituent concentrations greater than those listed at 35 Ill. Adm. Code Part 721.124(b), will be accepted at the CWU. Liquids will not be disposed in the CWU.

The following additional wastes will not be disposed in the CWU:

- Hazardous wastes as defined by 35 Ill. Adm. Code Part 721.103,
- Radioactive wastes,
- Household and putrescible wastes,

- Wastes containing polychlorinated bi-phenyls (PCBs) at concentrations greater than 500 ppm,
- Potentially infectious medical waste (PIMW),
- White goods components,
- Landscape wastes, and
- Lead-acid batteries.

RCRA – empty drums will only be accepted as long as they are either intact with one end open, or crushed with both ends open. Drums containing waste will only be accepted in bulk shipment containers with all drums open and available for inspection. Non-special wastes will not be accepted in drums unless the drums are intact with one end open.

Municipal Solid Waste Unit

The Municipal Solid Waste (MSW) Unit comprises the remainder of Clinton Landfill No. 3. As illustrated on the drawings enclosed separately, a portion of the MSW Unit overlies (or piggybacks) a portion of the CWU. The MSW Unit is considered to be a Municipal Solid Waste Landfill Unit, as defined by 35 Ill. Adm. Code Part 810.103.

Municipal solid waste (household and commercial refuse), construction demolition and debris waste, certified non-Special Waste, non-hazardous Special Waste, and ACWM will be accepted at the MSW Unit. The facility may accept certain non-hazardous wastes that do not pass the Paint Filter Liquids Test (PFLT) for solidification and disposal. These wastes will be solidified onsite so that they pass the PFLT prior to disposal in the MSW Unit. The following wastes will not be accepted in the MSW Unit:

- Hazardous wastes as defined by 35 Ill. Adm. Code Part 721.103,
- Radioactive wastes,
- Wastes containing PCBs at concentrations greater than that allowed by the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA),
- Potentially infectious medical waste (PIMW),
- White goods components,

BOL REFERENCE SHEET --- SAME FACILITY

Facility Number: 039 0055036
Facility Name: Clinton Landfill 3
USEPA Number: - N/A -
File Category: Permits

FOR ADDITIONAL INFORMATION ON THIS, SEE CATEGORY Permits
UNDER THIS SAME FILE HEADING.

DATE OF OTHER DOCUMENT	DESCRIPTION OF OTHER DOCUMENT
January 23, 2009	Pages 4 and 5 were revised in the addendum dated January 23, 2009 (Apx. J) and are included in Volume ~~II~~ 12 of this permit package.

- Landscape wastes, and
- Lead-acid batteries.

RCRA – empty drums will only be accepted as long as they are either intact with one end open, or crushed with both ends open. Drums containing waste will only be accepted in bulk shipment containers with all drums open and available for inspection. Non-special wastes will not be accepted in drums unless the drums are intact with one end open.

812.108.2 Maximum Capacity and Rate At Which Waste Will Be Placed

Gross airspace, inclusive of daily cover, intermediate cover and the separation layer between the CWU and MSW Unit; and exclusive of sidewall liner protective soil and the leachate sand drainage layer, is as follows:

LANDFILL UNIT	GROSS AIRSPACE (airspace cubic yards)
Municipal Solid Waste Unit	29,259,566
Chemical Waste Unit	2,552,925
TOTAL:	**31,812,491**

Waste volume calculations are provided with the Design Report in Attachment 2 of this application.

CLI anticipates that it will receive, on average, approximately 1,420,000 gate cubic yards of waste for disposal in the MSW Unit and 83,300 gate cubic yards of waste for disposal in the CWU each year.

812.108.3 Manner in Which Waste Will Be Placed And Compacted

Details of the manner in which waste will be placed and compacted to ensure compliance with 35 Ill. Adm. Code Part 811.105 are provided in the Operating Plan (Section 812.318 of this application).

812.108.4 Unit Weight of Waste

Chemical Waste Unit

Based on historical data from Clinton Landfill No. 2 and other landfills, CLI estimates that the unit weights of waste that will disposed in the CWU will average:

- 1,800 pounds per gate cubic yard (as received), and

- 2,000 pounds per airspace cubic yard (in-place).

Municipal Solid Waste Unit

Based on historical data from Clinton Landfill No. 2, CLI estimates that the unit weights of waste that will disposed in the MSW Unit will average:

- 600 pounds per gate cubic yard (as received), and
- 1,200 pounds per airspace cubic yard (in-place).

812.108.5 Length of Time Each Unit Will Receive Waste and Design Period

Chemical Waste Unit

Based upon receiving, on average, 83,300 gate cubic yards of waste per year, at 1,800 pounds per gate cubic yard, CLI estimates that the Clinton Landfill No. 3 CWU will receive about 75,000 tons of waste per year on average. At 2,000 pounds of waste per airspace cubic yard, CLI expects to consume approximately 75,000 airspace cubic yards (ascy) each year (on average). Therefore, the length of time the Clinton Landfill No. 3 CWU is expected to receive waste, i.e. its Operating Period, is calculated as follows:

CWU Operating Period (years) = 2,552,925 ascy ÷ 75,000 ascy/year = 34 years

The Design Period is defined as the Operating Period plus the Post-Closure Care Period. The Post-Closure Care Period for Clinton Landfill No. 3 will be 30 years. Therefore, the CWU Design Period is 64 years (34 + 30).

Municipal Solid Waste Unit

Based upon receiving, on average, 1,420,000 gate cubic yards of waste per year, at 600 pounds per gate cubic yard, CLI estimates that the Clinton Landfill No. 3 MSW Unit will receive about 426,000 tons of waste per year on average. At 1,200 pounds (0.6 tons) of waste per airspace cubic yard, CLI expects to consume approximately 710,000 ascy each year (on average). Therefore, the length of time Clinton Landfill No. 3 MSW Unit is expected to receive waste, i.e. its Operating Period, is calculated as follows:

MSW Unit Operating Period (years) = 29,259,566 ascys ÷ 710,000 ascys/year = 41 years

The Design Period is defined as the Operating Period plus the Post-Closure Care Period. The Post-Closure Care Period for Clinton Landfill No. 3 will be 30 years. Therefore, the MSW Unit Design Period is 71 years (41 + 30).

812.108.6 Size and Slope of Open Face

The size of the open face at each unit will vary and be dependent upon the amount of waste received at each unit during any particular day. The open face will be limited to that necessary to receive the waste and to ensure that the landfill will be operated in a safe and efficient manner. Based on the maximum expected daily waste receipts, the active face is not expected to exceed 15,000 square feet at the MSW Unit and 10,000 square feet at the CWU. At no time will the side slopes of the working face be steeper than 2 horizontal to 1 vertical.

812.108.7 Landfill Development

Clinton Landfill No. 3 will be developed and filled in phases to allow contemporaneous closure and stabilization pursuant to 35 Ill. Adm. Code Parts 811.110, 811.111, and 811.322. Each phase will be filled to near its practical operating capacity prior to constructing a subsequent phase. The practical capacity of a phase will be determined by the operator considering proper slopes to maintain the stability of the waste, access to the active face, and other operating conditions. Landfilling will typically occur in each phase for a period of about 3 to 5 years. The planned sequence of phased development for the CWU and MSW Unit is shown on Drawing No. D5, enclosed separately.

The final slopes will be constructed at overall slope gradients no steeper than 4:1 (horizontal to vertical). This mild slope, plus the storm water controls as described in Section 812.110 of this application and the turf establishment specifications will ensure compliance with the requirements of 35 Ill. Adm. Code Parts 812.322 a), b), and c). No structures will be constructed over the landfill.

812.108.8 Utilities and Equipment

The following utilities will be maintained at the facility:

- Electrical service to the scalehouse/maintenance building, leachate pumps, condensate lift stations, landfill gas flare station, and leachate load-out facilities,
- Telephone service to the scalehouse/maintenance building. The Facility Manager will also be equipped with a cellular telephone,

- A two-way radio (or cellular telephone) for each supervising equipment operator, the Facility Manager, and the scalehouse,
- Water supply to the scalehouse/maintenance building, and
- Sanitary service to the scalehouse/maintenance building.

811 107(c)

Equipment that will be maintained at the site to ensure compliance with 35 Ill. Adm. Code Part 811.304 is described in Section 812.318 of this application.

812.108.9 Transportation Plan

Access to the facility for vehicles hauling waste and/or construction equipment and vehicles will be limited to the gated entrance off U.S. Route 51 or the Rail Off-loading Facility. A permit application to develop the Rail Off-loading Facility (Log No. 2007-459) is pending as of the date of this permit application. At least one other gated facility access point may be constructed to provide emergency and other limited access from Township Road 1050E. This access will be limited to specifically authorized small vehicles (e.g. automobiles and pick-up trucks) and emergency vehicles. All entrances will be locked whenever the facility is not open.

CLI will maintain a paved road from the Route 51 entrance to the scales. The road beyond this point to the landfill boundary will be either paved or gravel to provide all-weather access. Roads that are frequently subjected to two-way traffic will be at least 20 feet wide where practical. Single lane roads will be at least 12 feet wide.

812.108.10 Operational Controls

The following operational controls are described in Section 812.318 of this application:

- Litter control,
- Boundary control and prevention of salvaging,
- Facility maintenance,
- Air quality plan,
- Noise control,
- Odor control,
- Vector control, and
- Fire control.

BOL REFERENCE SHEET --- SAME FACILITY

Facility Number:	0390055036
Facility Name:	Clinton Landfill 3
USEPA Number:	-N/A-
File Category:	Permits

FOR ADDITIONAL INFORMATION ON THIS, SEE CATEGORY Permits
UNDER THIS SAME FILE HEADING.

DATE OF OTHER DOCUMENT	DESCRIPTION OF OTHER DOCUMENT
January 23, 2009	Closure Plan ~~and Post-closure plan~~ Was Were revised in the addendum dated January 23, 2009 and is included in Volume #12 of this permit package.

SECTION 812.109 – LOCATION STANDARDS

The previously approved permit application submitted under Log No. 2005-070 provided the required documentation demonstrating that Clinton Landfill No. 3 meets all required location standards.

SECTION 812.110 – SURFACE WATER CONTROL

No changes are proposed to the currently approved surface water controls, although the estimated construction dates for the facility are being revised. Revised estimated construction dates are provided in Attachment 3. The Stormwater Management Plan for the Chemical Waste Unit, prepared by Shaw, is provided in Attachment 4.

SECTION 812.111 – DAILY COVER

No changes are proposed to the daily cover activities that were described in the approved permit application that was submitted under Log No. 2005-070.

SECTION 812.112 – LEGAL DESCRIPTION

The drawing included as Attachment 5 provides all information required by 35 Ill. Adm. Code Part 812.112.

SECTION 812.113 – PROOF OF PROPERTY OWNERSHIP AND CERTIFICATION

Proof of property ownership and certification were previously provided to the IEPA under Log No. 2005-070.

SECTION 812.114 – CLOSURE PLAN

This Closure Plan describes the closure activities that will be performed at Clinton Landfill No. 3 in compliance with 35 Ill. Adm. Code Part 811.114. The facility configuration after closure of all units is illustrated on Drawing No. D14, enclosed separately. This drawing shows the final topography contours

(after placement of the final cover) of all disturbed areas. The drawing also shows the location of all facility-related structures that will remain as permanent features after closure.

The final configuration of the facility is designed to minimize the need for further maintenance following closure. Specific features of the design that accomplish this include:

- The overall final landfill slopes are mild with a grade of 4:1 (horizontal to vertical).
- The final cover design includes terraces and storm water letdown pipes with energy dissipaters. These features are incorporated to protect the final cover from erosion.
- The final cover vegetative cover is comprised of a hearty blend of grasses that have demonstrated effectiveness at landfills in the central Illinois climate.
- The perimeter ditches have been designed for the worst-case peak flow, i.e. that prior to establishment of vegetative cover. The vegetative cover will significantly reduce the peak flows in the perimeter ditches, which will ensure long-term protection against erosion and scour.
- No structure will be constructed over the unit.

812.114.1 Routine Closure Activities

Routine closure is closure at the end of the intended Operating Life. As detailed in Section 812.108 of this application, the Operating Life is estimated to be 41 years. Therefore, assuming the landfill opens in year 2008, Routine Closure is expected to occur in the year 2049.

Final grades at closure are shown on Drawing No. D14. The closure activities will be performed in accordance with the applicable Specifications and Construction Quality Assurance (CQA) Plan sections. Steps necessary to close the facility at the end of the intended Operating Life are detailed below:

Equipment Decontamination: Equipment decontamination will consist of removing accumulated waste and pressure washing the landfill equipment that has been in contact with the waste. Wash waters will be collected and either solidified and disposed at the facility (see Section 812.318 of this application), or disposed offsite. Equipment used to construct the final cover will not contact waste and, therefore, will not require decontamination.

Solidification Unit: All waste will be removed from the solidification containers and disposed in the landfill. The containers will then be pressure washed as necessary to remove waste

residuals, and removed from the site. All stockpiles of reagents and adsorbents will also be removed.

Remove All Unnecessary Equipment and Structures: All equipment and structures that are not necessary for the post-closure land use will be removed. This will include removing the scales, solidification reagent silos and other containers, and landfill operations equipment (bulldozers, compactor, backhoe, etc.).

Install Gas Extraction Wells and Piping: Gas extraction wells and associated piping will be installed during routine closure. Gas collection system design details are provided in Section 813.310 of this application.

Final Cover Barrier Soil: The final cover design includes a minimum 12-inch thick compacted low permeability Final Cover Barrier Soil as described in Section 812.313 of this application. Final Cover Barrier Soil materials will be derived from onsite excavations or stockpiles of clay previously excavated from the site. Final Cover Barrier Soil construction includes foundation preparation, Final Cover Barrier Soil placement and compaction. The site has a substantial positive earth balance; therefore, an adequate volume of earth materials will be available onsite for final cover construction.

Geomembrane Installation: As described in Section 812.313 of this application, a 40 mil HDPE geomembrane is planned to be installed over all areas that have received waste. Geomembrane installation includes subgrade preparation, geomembrane placement and anchoring.

Vegetative Cover: An at least 3-feet-thick vegetative cover will be placed over the geomembrane. The vegetative cover materials will be derived from onsite excavations or stockpiles of soil excavated during landfill development. These soils are expected to predominantly consist of silty clays and silts capable of supporting vegetation. An adequate volume of these soils is available for closure. The upper 12 inches (nominal) of the vegetative cover will be amended with fertilizers or other amendments as needed to ensure vigorous vegetative growth. Alternatively, naturally fertile topsoil will be placed.

Seed and Mulch: The final cover and stockpile/borrow area will be seeded and mulched. Additional erosion controls, such as placement of silt fences, turf reinforcement, etc. will be placed in order to maintain compliance with storm water quality regulations while the vegetation is being established.

Storm Water Management Features: Storm water control berms/terraces and associated letdown pipes will be constructed during landfill closure. All other runoff control structures will have been constructed prior to closure.

CQA Activities: CQA activities will be performed in accordance with the approved CQA Plan. CQA activities will include field and laboratory testing of the Final Cover Barrier Soil, field geomembrane inspection and testing, laboratory geomembrane testing, vegetative soil cover inspection and surveys, and preparation of the CQA Acceptance Report.

Deed Notification: A notification on the deed to the landfill facility property will be recorded upon closure of all units. The notification will notify any potential purchaser of the property that the land has been used as a landfill facility and its use is restricted pursuant to 35 Ill. Adm. Code Part 811.111(d). A copy of this instrument will be placed in the Operating Record. The IEPA will be notified of these activities.

An estimated schedule to perform the routine closure activities is provided in Table 812.114-1. CLI will treat, remove from the site, or dispose all wastes and waste residues within 30 days after receipt of the final volume of waste. The schedule shows the total time required to close the site, and the time required for the various closure activities to allow tracking of the progress of closure. As indicated in Table 812.114-1, closure activities will be initiated within 30 days of the date the unit receives the final receipt of waste, and will be completed within 180 days of beginning closure.

TABLE 812.114-1

ESTIMATED ROUTINE CLOSURE SCHEDULE

ACTIVITY	WEEKS AFTER FINAL WASTE ACCEPTANCE	
	START	FINISH
Decontaminate Equipment	0	1
Solidification Unit Closure	0	1
Remove Scales	3	8
Final Cover Barrier Soil Foundation Layer	0	2
Gas Extraction Wells / Driplegs	2	8
Final Cover Barrier Soil	8	12

ACTIVITY	WEEKS AFTER FINAL WASTE ACCEPTANCE	
	START	FINISH
Geomembrane	12	15
Gas and Condensate Transmission Piping, and Lift Station	6	20
Vegetative Cover	15	20
Storm Water Management Systems	19	24
Seed and Mulch	24	25
CQA Acceptance Report	20	26

812.114.2 Assumed Closure Date and Premature Closure

Premature closure is closure at the "assumed closure date," which is defined as "the date during the next permit term on which the costs of premature final closure of the facility will be the greatest." For the purposes of this Plan, it is assumed that such closure will occur at a point in time when the maximum amount of final cover would have to be placed and waste is being placed at a level below the elevation required to allow gravity drainage of storm water runoff. Clinton Landfill, Inc. expects to be operating in MSW Unit Phase 3 and CWU Cell CWU 1 at the end of the first 5-year permit term. Therefore, the assumed closure date corresponds to the MSW Unit Phase 3 and CWU Cell CWU 1 active period.

In the event premature closure is required, an engineer will inspect the site conditions, and review and modify the Closure Plan as needed to assure that the site is closed in accordance with 35 Ill. Adm. Code Part 812. The primary site features that will be reviewed and evaluated include slope stability, storm water drainage, gas extraction wells and transmission piping system, geomembrane installation requirements, and protective cover material borrow and placement. Anticipated steps necessary to prematurely close the facility are as described for routine closure in the previous section, with the addition of installing perimeter gas monitoring probes near the MSW Unit and upgrading the temporary storm water pump stations that would have been constructed in the bottom of the landfill excavations during the operating phase in order to handle storm water that drains into the excavations for the landfill.

An estimated schedule to perform the routine closure activities is provided in Table 812.114-2. CLI will treat, remove from the site, or dispose all wastes and waste residues within 30 days after receipt of the final volume of waste. The schedule shows the total time required to close the site, and the time required for the various closure activities to allow tracking of the progress of closure. As indicated in Table 812.114-2, closure activities will be initiated within 30 days of the date the unit receives the final receipt of waste, and will be completed within 180 days of beginning closure.

TABLE 812.114-2

ESTIMATED PREMATURE CLOSURE SCHEDULE

ACTIVITY	WEEKS AFTER FINAL WASTE ACCEPTANCE	
	START	FINISH
Decontaminate Equipment	0	1
Solidification Unit Closure	0	1
Remove Scales	3	8
Final Cover Barrier Soil Foundation Layer	0	2
Gas Extraction Wells / Driplegs	2	8
Perimeter Gas Monitoring Probes	8	9
Final Cover Barrier Soil	8	12
Geomembrane	12	15
Gas and Condensate Transmission Piping, and Lift Station	6	20
Vegetative Cover	15	18
Storm Water Management Systems	18	20
Seed and Mulch	20	21
CQA Acceptance Report	18	23

812.114.3 Temporary Suspension of Waste

A temporary suspension of waste acceptance is not anticipated at any time. If this does occur, however, the following steps will be taken to protect the environment:

- Verify that the minimum daily cover has been placed over all exposed waste. If temporary waste suspension is expected to, or will occur, longer than 60 days, place intermediate cover over all wastes that have not received final or intermediate cover;
- Empty and cover the solidification containers, or remove them from the site;
- Secure the site, place a sign indicating the landfill status, and notify the public of the temporary suspension of waste acceptance;
- Verify that storm water management controls are in place and operating correctly. Arrange for storm water pumping if required;
- Inspect the site at least once a week and after each substantial rainfall. Repair damaged cover promptly;
- Remove and dispose of any illegally-dumped waste on or adjacent to the landfill;
- Operate the leachate collection/recirculation system and the landfill gas collection/disposal system;
- Perform all scheduled groundwater, surface water, leachate, and LFG monitoring activities during the temporary suspension of waste; and
- Decontaminate any equipment leaving the site in accordance with the Closure Plan.

CLI will not temporarily suspend waste acceptance for a period exceeding 1 year unless it receives an extension from the IEPA.

812.114.4 Largest Area Requiring Final Cover

Clinton Landfill No. 3 will receive final cover in stages in order to maintain compliance with 35 Ill. Adm. Code Part 811.314. The largest area requiring final cover at any time during the facility's active period is expected to occur just prior to final closure. This area is estimated to be approximately 55 acres.

812.114.5 Maximum Inventory of Waste

The maximum inventory of waste disposed at the landfill is estimated to be 20,110,000 tons.

SECTION 812.115 – POST-CLOSURE CARE PLAN

Clinton Landfill No. 3 will be monitored and maintained for a minimum post-closure period of 30 years as described in this Post-Closure Care Plan. The landfill will be maintained as open space throughout the post-closure period. Drawing No. D14 shows the configuration of the facility after closure of all units.

812.115.1 Maintenance and Inspections

A visual inspection of all vegetated surfaces will be conducted for a minimum period of 30 years after closure. Inspections will be conducted quarterly during the first 5 years following closure, and annually thereafter. The following features will be inspected:

- Landfill cover for rills, gullies, and crevices,
- Vegetation for evidence of failure or damage, such as due to erosion, landfill gas, etc.,
- Evidence of excessive landfill settlement, such as standing water, cracks, poor drainage, depressions, holes, etc.,
- The geomembrane connection to gas extraction wells,
- Excessive siltation, erosion or scour in the facility ditches,
- Culverts for crushing, clogging, and excessive corrosion, and
- Site boundary fence, gates and locks for evidence of damage and disrepair.

Features will be maintained in accordance with the following specifications:

- All rills, gullies and crevices 6 inches or deeper will be filled. Desiccation cracking of soil that normally occurs during extremely dry weather does not warrant corrective actions provided the desiccation cracks heal during wet weather.
- All eroded and scoured drainage channels will be repaired and lining material will be replaced as necessary. Areas identified as particularly susceptible to erosion will be regraded as necessary to minimize such susceptibility.

- All holes and depressions created by settling will be filled and recontoured to prevent standing water.

- Geomembrane connections to gas extraction wells will be readjusted as necessary to provide a tight seal.

- Storm water ditches and culverts will be maintained to pass the design storm water runoff. This may require removing debris buildup at culvert entrances, removing excessive sediment buildup, and/or relining or replacing culverts that have failed structurally.

- All reworked surfaces, and areas with failed or eroded vegetation in excess of 100 square feet cumulatively, will be revegetated.

- The final cover will be mowed annually to prevent trees, brush, shrubs, and other deep-rooted vegetation from becoming established.

- Site boundary fencing, gates, and locks will be repaired as required to maintain site security.

812.115.2 Leachate Collection and Management System Operation and Monitoring

Leachate will be collected and recirculated and/or disposed for a minimum of 30 years after closure, unless reduced by the Agency. Operating and maintaining the leachate collection system will consist of the following primary tasks:

- Maintaining the leachate collection pumps and leachate transfer pump to ensure efficient operation. Maintenance generally consists of removing any excessive build-up of scale and/or iron bacteria. Routine maintenance will be conducted in accordance with the procedures and schedules recommended by the pump manufacturer and as otherwise required.

- Cleaning leachate collection piping as necessary to remove sediment and to open clogged perforations. Leachate pipe cleanout will consist of injecting water at high pressure into the leachate piping. Access to the piping will be provided by the leachate pipe cleanouts.

- Properly disposing excess leachate collected in the leachate storage tank as necessary.

Representative samples of leachate will be collected from the leachate collection sumps while the leachate management system is in operation. Samples will be analyzed as described in Section 812.308 of this application.

812.115.3 Gas Monitoring and Collection/Disposal

Sections 812.309 through 812.311 of this application describe the landfill gas (LFG) monitoring network and the collection/disposal system.

LFG and ambient air quality will be monitored as described in Section 812.309 of this application. LFG and ambient air samples will be collected on a monthly basis during the first 5 years of the post-closure period. Monitoring will be conducted quarterly thereafter until the end of the 30-year post-closure period. The monitoring frequency will be reduced to annually while the LFG collection/disposal system is operating. The monitoring frequency of the other air toxics that may be required by regulation will be established by the IEPA based on emission rates and ambient levels in the atmosphere.

Monitoring beyond the minimum periods will not be required provided LFG collection and disposal is ceased and the following conditions have been met for at least one year:

- The concentrations of methane is less than 5 percent of the lower explosive limit (LEL) in air for 4 consecutive quarters at all monitoring points outside the landfill unit, and
- Monitoring points inside the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed 5 percent of the LEL.

LFG collection and disposal will continue as long as: 1) leachate is recycled, 2) methane levels in the perimeter gas monitoring probes are greater than 50 percent of the LEL, 3) methane is detected at a concentration greater than 25 percent of the LEL in air in any building on or near the facility, or 4) malodors caused by the unit are detected beyond the property boundary.

812.115.4 Groundwater Monitoring

Groundwater monitoring will be performed as described in Section 812.317 of this application throughout the 30-year (minimum) post-closure period, or as otherwise approved by the IEPA.

812.115.5 Security

Gates at the facility entrances will control access into the landfill. The access gates will be locked at all times except to provide access for the inspections, monitoring, maintenance, and other site activities. The fence, gates and locks will be maintained functional throughout the post-closure period.

BOL REFERENCE SHEET --- SAME FACILITY

Facility Number:	039005 5036
Facility Name:	Clinton Landfill 3
USEPA Number:	- N/A -
File Category:	Permits

FOR ADDITIONAL INFORMATION ON THIS, SEE CATEGORY Permits UNDER THIS SAME FILE HEADING.

DATE OF OTHER DOCUMENT	DESCRIPTION OF OTHER DOCUMENT
August 27, 2009	Page 18 was revised in the August 27, 2009 addendum and is included in Volume X6 17 of this permit package.

IL 532 1596
LPC 258 Rev. Jun-93

Printed on Recycled Paper

812.115.6 Recordkeeping

All inspection records; data; corrective action records; leachate monitoring, recycling and disposal data; landfill gas monitoring, collection and disposal data; groundwater monitoring data; etc. will be maintained with the Operating Record. A copy of the Post-Closure Care Plan will also be made part of the Operating Record.

812.115.7 Evaluation of Data Collected During Post-Closure Period

All data collected in accordance with this plan will be properly reviewed, evaluated, and acted upon. This includes reviewing all groundwater, landfill gas monitoring data, leachate data, and inspection records as the data becomes available. Data review will consist of conducting the required statistical analyses (groundwater data) and comparing the results to the established standards. Any deviations from the standards will be reported to the IEPA as required. Any deviations requiring corrective actions as specified in this plan and regulations will be promptly corrected.

SECTION 812.116 – CLOSURE AND POSTCLOSURE COST ESTIMATES

Closure and Post-Closure Care cost estimates are provided as Attachment 6.

SECTION 812.302 – WASTE ANALYSIS

Clinton Landfill No. 3 will accept a variety of non-haz. waste chemical waste. Procedures that will be implemented to ensure that the wastes accepted at the facility are non-hazardous, compatible and will not react to form a hazardous substance or gaseous product are described in Section 812.318 of this application.

SECTION 812.303 – SITE LOCATION

The Site Location Map previously submitted to the IEPA under Log No. 2005-070 provides all information required by 35 Ill. Adm. Code Part 812.303.

SECTION 812.304 – WASTE SHREDDING

Waste shredding will not be conducted at Clinton Landfill No. 3.

SECTION 812.305 – FOUNDATION ANALYSIS AND DESIGN

The approved permit application previously submitted under Log No. 2005-070 documents the foundation analysis and design for the MSW Unit. Included with that application were the results of tests performed on foundation materials, specifications for soil to be used for foundation construction and a construction quality assurance program demonstrating compliance with the requirements of 35 Ill. Adm. Code Parts 811.304 and 811.305.

Shaw has conducted additional foundation analysis and design for the CWU. Their foundation analysis and design, which was prepared under the supervision of an Illinois-licensed Professional Engineer, is documented in their Design Report, provided as Attachment 2 to this application.

Revisions to the geomembrane and composite drainage layer specifications are proposed to reflect the use of textured geomembrane throughout the floor of the CWU and the use of a composite drainage layer as the CWU redundant leachate drainage layer. Proposed revised geomembrane specifications are provided in Attachment 7; proposed revised composite drainage layer specifications are provided in Attachment 8. No revisions are required for the remaining previously approved specifications, nor for the previously approved Construction Quality Assurance (CQA) Plan.

SECTION 812.306 – DESIGN OF THE LINER SYSTEM

The approved permit application previously submitted under Log No. 2005-070 provided documentation that the MSW Unit liner system meets the requirements provided at 35 Ill. Adm. Code Part 811.306. Included with that application were cross-sections and plan views of the liner system, the results of tests performed on the earth and geosynthetic liner materials, and specifications for the earth and geosynthetic liner materials. The specifications include a description of the construction methods and equipment to be utilized, physical properties of the materials to be used in liner construction and a description of the methods to be used to seam the geomembranes. The CQA Plan included in the approved permit application provided diagrams and supporting documentation showing that the test liner will be constructed and evaluated in accordance with 35 Ill. Adm. Code Part 811.507(a). In addition, CLI submitted to the IEPA a Test Liner CQA Acceptance Report for the test liner that was constructed for Clinton Landfill No. 3. That document, assigned Log No. 2007-119, provided a detailed description of the test liner that was constructed for Clinton Landfill No. 3.

CLI is proposing modifications to the portion of the liner system which will be constructed within the CWU. These modifications are described in Shaw's Design Report, provided as Attachment 2 to this application. Shaw's Design Report includes plan views of the revised liner system, a plan showing the proposed layout of individual geomembrane panels, cross-sections and details of the CWU liner system, and the remaining documentation required by 35 Ill. Adm. Code Part 811.306. The cross-sections and details of the MSW Unit liner system remain unchanged from those provided in the approved permit application submitted under Log No. 2005-070.

Revisions to the geomembrane and composite drainage layer specifications are proposed to reflect the use of textured geomembrane throughout the floor of the CWU and the use of a composite drainage layer as the CWU redundant leachate drainage layer. Proposed revised geomembrane specifications are provided in Attachment 7; proposed revised composite drainage layer specifications are provided in Attachment 8. No revisions are required for the remaining previously approved specifications, nor for the previously approved CQA Plan.

SECTION 812.307 – LEACHATE DRAINAGE AND COLLECTION SYSTEMS

The approved permit application previously submitted under Log No. 2005-070 provided documentation that the MSW Unit leachate drainage and collection systems meet the requirements provided at 35 Ill. Adm. Code Parts 811.307 and 811.308. Included with that application were cross-sections and plan views of the leachate drainage and collection systems, locations of all leachate level monitoring locations, stability analyses and other calculations (including assumptions and information) used to design the leachate drainage and collection systems, and a description of the methods to be used to clean and maintain the leachate collection and drainage systems. Material and construction specifications, and a CQA Plan, were also provided to ensure that the leachate drainage and collection systems will be properly constructed.

CLI is proposing modifications to the portion of the leachate drainage and collections systems which will be constructed within the CWU. These modifications are described in Shaw's Design Report, provided as Attachment 2 to this application. Shaw's Design Report includes plan views of the leachate collection and drainage systems, cross-sections and details of the CWU leachate drainage and collection systems, stability analyses and other calculations used to design the CWU leachate drainage and collection systems, and the remaining documentation required by 35 Ill. Adm. Code Parts 811.307 and 811.308. The cross-sections and details of the MSW Unit leachate drainage and collection systems,

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

EXHIBIT 3

July 22, 2014 IEPA Letter to the DeWitt County Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829
PAT QUINN, GOVERNOR LISA BONNETT, DIRECTOR

July 22, 2014

Sherrie Brown, Board Chair
Dewitt County Board
4390 Tumbridge Hill Rd.
Clinton, IL 61727

Karle Koritz, State's Attorney
DeWitt County State's Attorney Office
201 W. Washington Street
Clinton, IL 61727

RE: Clinton Landfill 3 Siting Approval

Ms. Brown and Mr. Koritz:

As you may know, on January 8, 2010, the Illinois Environmental Protection Agency ("Agency") approved Peoria Disposal Company's ("Peoria Disposal") permit application to allow Clinton Landfill 3 ("Landfill") to accept polychlorinated biphenyl wastes ("PCB wastes") in concentrations that are regulated by the Toxic Substances Control Act ("TSCA"), if authorized to accept those wastes by the U.S. Environmental Protection Agency.

Since approving that permit application, the Agency has received information that calls into question the extent of the DeWitt County Board's ("Board") September 12, 2002 siting approval, specifically whether the siting approval included approval to accept PCB wastes in TSCA-regulated concentrations. In light of that information and in order to ensure adherence to the Illinois Environmental Protection Act, the Agency requests that the Board answer, in writing, the following questions:

- In its September 12, 2002 siting approval, did the Board authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill?
- At any time after September 12, 2002, did the Board issue any other siting decision to Peoria Disposal to authorize it to accept PCB wastes in TSCA-regulated concentrations at the Landfill?
- If its September 12, 2002 siting approval did *not* authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill, does the Board believe that additional siting approval is necessary for Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill?

Please provide the Agency the Board's written responses on or before **July 28, 2014** to the address above. Any questions regarding this letter should be directed to me at (217) 782-5544.

Sincerely,

John J. Kim
Chief Legal Counsel

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
	)	
Respondent.	)	

EXHIBIT 4

July 24, 2014 DeWitt County Board Response Letter

DeWITT COUNTY BOARD
COUNTY BUILDING
201 WEST WASHINGTON
CLINTON, IL 61727

Sherrie Brown
Chair

Pete Daugherty
Vice Chair

July 24, 2014

Mr. John J. Kim
Chief Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Subject: County Board Response to Illinois EPA Questions
Clinton Landfill #3 Siting
Clinton, Illinois

Dear Mr. Kim:

The DeWitt County Board (the Board) is in receipt of your July 22 letter, asking for information regarding the acceptance by Clinton Landfill #3 of polychlorinated biphenyl (PCB) wastes regulated under the Toxic Substances Control Act (TSCA). We appreciate your interest in this matter, and are happy to answer your three questions below:

In its September 12, 2002 siting approval, did the Board authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill?

No. The Board did *not* authorize the disposal of TSCA-regulated PCBs in its September 12, 2002 siting approval. In fact, a Clinton Landfill representative testified at the siting hearing that no such PCB waste would be accepted by the Landfill. The Board also did *not* authorize the disposal of manufactured gas plant (MGP) waste which exceeds the regulatory levels contained in 35 Ill. Adm. Code 721.124(b) in its September 12, 2002 siting approval.

At any time after September 12, 2002, did the Board issue any other siting decision to Peoria Disposal to authorize it to accept PCB wastes in TSCA-regulated concentrations at the Landfill?

No. The Board issued no further siting decisions subsequent to its 2002 siting approval, nor was the Board ever asked by Clinton Landfill to provide a subsequent siting decision, either for TSCA-regulated PCB wastes, or for MGP wastes which exceed the regulatory levels contained in 35 Ill. Adm. Code 721.124(b).

If its September 12, 2002 siting approval did not authorize Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill, does the Board believe that additional siting approval is necessary for Peoria Disposal to accept PCB wastes in TSCA-regulated concentrations at the Landfill?

Yes. On November 14, 2013, the DeWitt County Board passed a resolution stating in

part, that the Board believes the Chemical Waste Unit of Clinton Landfill #3 (which has been permitted by Illinois EPA to accept both the PCB and MGP waste streams noted above) required local siting pursuant to the Illinois Environmental Protection Act (415 ILCS 5/39.2).

This matter is one of great concern, not only for the County Board, but for the residents of DeWitt County, who were never provided an opportunity to hear testimony or provide public comment on the acceptance of the TSCA-regulated PCB wastes about which you have inquired. The Board welcomes your review of this matter, and stands ready to provide the Illinois EPA further assistance or information as necessary.

Sincerely,

Sherrie Brown
Chairwoman, DeWitt County Board

2.5 OPERATING PLAN

This section provides a narrative description of the facility and describes how the facility will be operated in order to ensure compliance with the facility's permits and applicable regulations.

2.5.1 Clinton Landfill No. 2 Operating History

CLI strives to operate Clinton Landfill No. 2 in an unobtrusive and environmentally safe manner. Although CLI has received odor complaints on rare occasions, we are unaware of any operating issues that negatively affect the nearby populations and property. We note that the Host County Agreement (provided in Appendix 11-4 of this siting application) includes provisions for responding to odor complaints.

As detailed in Section 10.5 of this siting application, as of the date of this siting application two Violation Notices regarding the unknowing acceptance of foundry wastes that the Illinois Environmental Protection Agency alleges to meet the definition of hazardous waste are pending. As stated in Section 10.5, CLI disputes these claims since, as of the date of this application, CLI has not received any analytical information for any shipments accepted which would support IEPA's allegations. Regardless, CLI has implemented additional waste acceptance safeguards to ensure that no questionable wastes are accepted from foundries in the future. These additional waste acceptance safeguards are incorporated in Section 2.5.6 of this siting application.

2.5.2 Operating Hours And Personnel

The landfill may accept waste on Mondays through Fridays, 6 am to 6 pm, and on Saturdays from 6 am to 3 pm. Facility operations, including application of daily cover, cell development, etc. will occur until no later than 8 pm except under extreme conditions. The hours of operation may be expanded in emergency situations with notice to the IEPA.

The landfill will be fully staffed with personnel to ensure efficient operations in accordance with the applicable regulations and permit conditions. The following sections describe the personnel that will be directly responsible for operating the landfill.

Landfill Director

The Landfill Director has overall responsibility for development and operation of the facility. The Landfill Director has substantial knowledge of all regulatory requirements pertaining to the landfill. The Facility Manager directly reports to the Landfill Director.

Facility Manager

The Facility Manager is responsible for the day-to-day operations of the facility. This includes supervising facility personnel, directing equipment and facility maintenance activities, and ensuring that the facility is operated and maintained in accordance with the permit.

Gate Control Officer

The Gate Control Officer operates the facility scales, maintains scale tickets, and performs load inspections.

Equipment Operators and Laborers

Equipment Operators and Laborers operate waste and earth handling equipment, perform repairs and maintenance tasks, and conduct other activities as directed by the Facility Manager.

Facility personnel will receive training appropriate for their duties to ensure safe and compliant operation and management of the facility. An outline of the training program is provided in Appendix 2.5-1.

2.5.3 Waste Acceptance Procedures

Types Of Waste Accepted

Municipal solid waste (household and commercial refuse), construction and demolition waste, certified non-Special Waste, and non-hazardous Special Waste will be accepted at the facility. The facility may accept certain non-hazardous wastes that do not pass the Paint Filter Liquids Test (PFLT) for solidification and disposal. These wastes will be solidified onsite so that they pass the PFLT prior to disposal. The following wastes will not be accepted:

- Hazardous wastes as defined by 35 IAC 721.103,
- Radioactive wastes,
- Wastes containing polychlorinated bi-phenyls (PCBs) at concentrations greater than that allowed by the Toxic Substances Control Act (TSCA),

- Potentially infectious medical waste (PIMW),
- Asbestos-containing materials,
- White goods components,
- Landscape wastes,
- Lead-acid batteries, and
- Intact, or otherwise improperly processed tires.

Additional information related to waste management is provided in the following sections of this document:

- Load checking procedures that will be followed to ensure that only acceptable wastes are disposed at the facility: Section 2.5.3,
- Special Waste management procedures: Section 2.5.4, and
- Solidification of liquids: Section 2.5.5.

Weighing and Recordkeeping

All wastes will be received by over-the-road vehicles; waste will not be received by rail, except as authorized by the County pursuant to the Host County Agreement (a copy of Host County Agreement is provided in Appendix 11-4 of this siting application. All vehicles carrying waste will be directed to the facility's scale-house and weighed. Except for vehicles with a known, previously recorded net (empty) weight, the vehicles will be weighed again after discharging their loads. The vehicle identity, gross and net weight, and estimated volume of waste will be recorded. This information will be retained on file for at least 3 years.

2.5.4 Load Checking Program

A load checking program will be implemented to detect and discourage attempts to dispose unauthorized wastes at the facility. The load checking program is described in the following sections.

Random Checks

At least three randomly determined loads of municipal solid waste (MSW), including certified non-special waste, will be checked each week. The days that the loads are checked will be randomly selected as well.

The randomly selected loads will be directed to discharge their loads at a designated location within the disposal area. The location will be near the active face, but the contents will not be allowed to commingle with wastes from other loads. Facility personnel will then conduct a detailed inspection of the entire contents of the discharged load for any regulated hazardous, PCB, PIMW, or other unacceptable wastes. If regulated hazardous, PCB, PIMW, or other unacceptable wastes are suspected, the Operator will notify the generator, hauler or other responsible party to determine the identity of the waste.

Special Waste Load Checks

All loads of Special Waste loads will be checked for the presence of unacceptable materials. Typical Special Waste load checking procedures are described below:

- All loads stop at the gate control office,
- Gate control personnel inspect the manifests and the load to confirm that the waste appearance is similar to that described on the Waste Material Data Sheet, and performs fingerprint analysis consisting of conducting a pH measurement, radioactivity scan, volatile organic vapor scan, and water reactivity screen. Some waste streams undergo additional, more extensive gate control testing prior to acceptance,
- Gate control personnel evaluate whether the load is acceptable and conforms to the IEPA permit and facility pre-authorization,
- Gate control personnel notify the Facility Manager if the load is suspected to be unacceptable, and obtains authorization to reject the load. The generator is notified and arrangements are made to return the load to the generator. Information regarding rejected special waste loads will be reported to the IEPA, as required,
- Gate control personnel sign the manifest if the load is acceptable. The manifests are then distributed appropriately.

2.5.5 Waste Solidification

Wastes to be solidified will be transported to a designated solidification area near the active face. The designated solidification area will be within an area that is developed and permitted (including Operating Permit) to accept waste. Because of the in-place environmental controls, the permitted landfill area is suitable for use as a site to conduct waste solidification. The solidification area location will vary, but will be at least 10 feet above the landfill floor, and at least 30 feet from the landfill sidewall liner system. Berms will be constructed around the solidification area to prevent run-off from the area.

Wastes will be solidified in liquid-tight containers, such as steel drums and roll-off containers. Solidification containers will be adequately spaced to allow inspections and equipment access. Up to 10 drums and 10 roll-off containers will be used at any one time. A process flow diagram and conceptual plan of the treatment area are provided in Appendix 2.5-2. The goal of the treatment is to solidify the waste such that the waste passes the paint filter test.

The wastes will be directly dumped or pumped from the waste transport trucks into the solidification containers. Alternatively, solidification will occur in the drums in which the wastes are transported (provided adequate freeboard is available for the solidification adsorbents/reagents and mixing operations). Solidification agents (reagents and/or adsorption materials) will be placed in the containers and mixed with the wastes.

Adsorbents (e.g. soil, "Oil-Dry", sawdust, and/or corn cobs) will primarily be used for the solidification process. However, depending upon waste characteristics, reagents might also be used. Reagents may include lime, pozzalime, fly ash, and/or bottom ash. Fly ash and bottom ash that are to be used as reagents may only originate from coal combustion. Pozzalime is simply a mixture of lime and a pozzalonic material. Market conditions, availability, and waste characteristics will dictate which solidification agents will be used.

Reagents will be "stockpiled" onsite within portable silos. The silos will be closed top and therefore will protect the reagents from precipitation. Adsorbents will be placed in traditional stockpiles and covered as required.

The waste/solidification agent mix will be allowed to cure as required. Following curing, the waste will be tested for free liquids using the paint filter test. Wastes that pass the paint filter test will be removed from the containers using a backhoe or excavator. Material that cannot be removed using the

mechanical equipment will be manually removed using shovels. The waste will be direct-loaded into a transport vehicle for delivery to the landfill's active face and disposed.

Wastes that do not pass the paint filter test will be allowed to cure longer and/or additional solidification agent will be mixed in with the waste.

Wastes requiring solidification will be solidified on the day received. Solidified wastes are intended to be disposed the same day; however, depending upon the length of curing time that is required and the time that the waste was solidified, in some instances solidified waste may have to remain in the solidification container until the next business day. In these instances, such waste will be disposed during the next business day. Solidification containers containing wastes exhibiting noxious odors and wastes that must remain in a container overnight will be tightly covered.

2.5.6 Management Of Special Waste

CLI will follow all IEPA requirements for managing Special Waste. The following sections describe the current Special Waste management procedures. The facility Operator may impose additional requirements for the transportation, disposal and handling of Special Wastes to ensure protection to the environment, facility employees, and the landfill facility itself.

Special Waste Manifests

All Special Wastes accepted for disposal (excluding Special Wastes generated by the Facility Operator at the site) shall be accompanied by a manifest. Manifests shall include the following information as a minimum:

- The name of the Special Waste generator,
- When and where the Special Waste was generated,
- The name of the Special Waste hauler,
- The name of the solid waste management unit (i.e. Clinton Landfill No. 3),
- The date of delivery to the landfill,
- The name, Special Waste stream permit number, and quantity of Special Waste delivered,

- The signature of the person who delivered the Special Waste to the hauler, acknowledging such delivery,
- The signature of the Special Waste hauler, acknowledging receipt of the Special Wastes, and
- The signature of the person who accepted the Special Waste at the landfill, acknowledging acceptance of the Special Waste.

Clinton Landfill No. 3 will be designated on the manifests as the final destination point. Any subsequent delivery of the Special Waste or any portion or product thereof to a Special Waste hauler will be conducted under a manifest initiated by Clinton Landfill No. 3.

All Special Waste deliveries must be accompanied by three copies of the manifest. The hauler shall retain one copy of the manifest. Facility personnel will send one copy of the completed manifest to the person who delivered the Special Waste to the hauler (typically the generator). Facility personnel will maintain one copy of the completed manifest on file for at least three years. Completed manifests will be made available to the IEPA at reasonable times for inspection and photocopying pursuant to Section 4(d) of the Illinois Environmental Protection Act.

Profile Identification Record

Generators of Special Waste (including Special Wastes generated by the Facility Operator at the site) must obtain the Operator's acceptance of the waste prior to transporting the waste to the facility. Upon obtaining the Operator's acceptance, a Special Waste permit application will be submitted to the IEPA for approval. IEPA pre-approval is not required for waste streams for which the facility has a Generic Permit.

The first step in Special Waste acceptance consists of the generator providing to the Operator a Special Waste profile identification sheet. The Special Waste profile identification sheet shall be supplied by the generator and certify the following:

- The generator's name and address,
- The transporter's name and telephone number,
- The name of the waste,
- The process generating the waste,

- Physical characteristics of the waste (e.g. color, odor, solid or liquid, and flashpoint),
- The chemical composition of the waste,
- The metals content of the waste,
- Absence of hazardous characteristics, including identification of wastes deemed hazardous by the USEPA or the IEPA,
- Absence of polychlorinated biphenyls (PCBs) and 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCCD), and
- Any other information, such as the results of tests performed in accordance with 35 IAC 811.202, that can be used to determine whether 1) the Special Waste is regulated as a hazardous waste as defined by 35 IAC 721, 2) the Special Waste is of a type that is permitted for, or has been classified in accordance with 35 IAC 809, for disposal at the facility, and 3) whether the method of disposal at the facility is appropriate for the waste.

Each subsequent shipment of a Special Waste from the same generator must be accompanied by a Special Waste manifest, a copy of the original Special Waste profile identification sheet, and either of the following:

- A Special Waste recertification by the generator describing whether there have been changes in the following: laboratory analysis (copies to be attached), raw material in the waste-generating process, the waste-generating process itself, the physical or hazardous characteristics of the waste, and new information on the human health effects of exposure to the waste, or
- Certification indicating that any change in the physical or hazardous characteristic of the waste is not sufficient to require a new Special Waste profile.

Waste Analysis Plan

Except for Special Wastes for which the facility has a Generic Permit, a representative sample of each Special Waste stream must, at a minimum, be analyzed for the following parameters:

- Paint filter,
- Flashpoint,

- Reactive sulfide,
- Reactive cyanide,
- Total phenols,
- pH, and
- The organic and inorganic Toxicity Characteristic Constituents listed in 35 IAC 721.124 by the Toxicity Characteristics Leaching Procedure (TCLP).

The following exceptions apply to the above analytical requirements:

- Total sulfide analysis may be substituted for reactive sulfide, only if the total sulfide concentration does not exceed 10 parts per million (ppm),
- Total cyanide analysis may be substituted for reactive cyanide, only if the total cyanide concentration does not exceed 10 parts per million (ppm),
- Total concentration analyses may be substituted for TCLP analyses except where the total concentrations exceed the TCLP limits specified in 35 IAC 721.124,
- Analysis of the eight pesticide Toxicity Characteristic Constituents (D012, D013, D014, D015, D016, D017, D020, and D031) can be waived if the Generator certifies that they are not expected in the waste based on the nature of the waste and generator's business,
- Petroleum-contaminated media and debris from Leaking Underground Storage Tank (LUST) sites subject to corrective action under 35 IAC Parts 731 and 732 are only required to be analyzed for flash point, paint filter test, and TCLP lead,
- An MSDS for off-specification, unused or discarded commercial or chemical products may be used to determine the presence of hazardous constituents in lieu of analytical results,
- Complete TCLP analysis is not required in the case of an emergency cleanup provided: 1) the IEPA Emergency Response Unit (ERU) authorizes the waste stream analytical exemption, 2) the Operator obtains assurance that the Generator has received an incident number from the Illinois Emergency Management Agency, and 3) the waste was analyzed for the chemical constituents required by the IEPA ERU.

Special Waste streams will be required to be reanalyzed at least once every 5 years and whenever the composition of the waste changes.

Acceptance Criteria

Special Waste shall meet the following criteria prior to acceptance:

- Does not contain a listed hazardous waste or PCBs at concentrations regulated by the Toxic Substances Control Act,
- Does not contain asbestos-containing material,
- Does not exhibit the characteristics of ignitability, reactivity, corrosivity, or toxicity as defined by 35 IAC 721 Subpart C,
- Does not contain total phenol concentrations greater than 1,000 parts per million,
- Does not contain reactive cyanide concentrations greater than 250 parts per million unless specific information to show it does not present danger to human health or the environment is provided. Wastes with between 10 and 250 parts per million reactive cyanide can only be accepted if the Generator provides a signed certification that none of the following have occurred:
  - ⇒ The waste has never caused injury to a worker because of HCN generation,
  - ⇒ That the OSHA work place air concentration limits of HCN have not been exceeded in areas where the waste is generated, stored, or otherwise handled, and
  - ⇒ That air concentrations of HCN above 10 parts per million have not been encountered in areas where the waste is generated, stored, or otherwise handled.
- Does not contain reactive sulfide concentrations greater than 500 parts per million unless specific information to show it does not present danger to human health or the environment is provided. Wastes with between 10 and 500 parts per million reactive cyanide can only be accepted if the Generator provides a signed certification that none of the following have occurred:
  - ⇒ The waste has never caused injury to a worker because of H_2S generation,

⇒ That the OSHA work place air concentration limits of H_2S have not been exceeded in areas where the waste is generated, stored, or otherwise handled, and

⇒ That air concentrations of H_2S above 10 parts per million have not been encountered in areas where the waste is generated, stored, or otherwise handled.

Foundry Wastes

The following additional requirements apply to Special Wastes generated from foundries.

Prior to first time acceptance, a CLI representative will tour the foundry facility and question knowledgeable foundry representatives to:

- Review the waste generation processes to identify all hearths where metal is melted, where dusts are generated, and identify all baghouses to ensure that hazardous wastes are not commingled with nonhazardous wastes,
- Review how wastestreams are sampled at the point of generation to ensure that representative samples are collected, and
- Review the wastestream analytical data to confirm that all appropriate parameters have been analyzed.

CLI will not accept Special Wastes that have been commingled with other Special Wastes unless each wastestream was individually characterized and determined to be nonhazardous prior to being commingled.

RCRA Empty Containers

RCRA empty containers received as a Special Waste shall meet the following criteria:

- Have a rated capacity less than 110 gallons,
- Meet the definition of empty as provided in 35 IAC 721.107(b), and
- For drums, at least one end must be removed and the drums must be intact, or both ends must be removed and the drums must be crushed flat prior to disposal.

Where possible, a copy of the material safety data sheet for products last contained in the drum shall be obtained and kept on file. Containers that formerly held "P"-listed hazardous wastes or TSCA regulated quantities of PCBs must be triple rinsed. Compressed gas cylinders will not be accepted.

Recordkeeping

The Operator will retain copies of all Special Waste profile identification sheets, Special Waste recertifications, certifications of representative sample, Special Waste laboratory analyses, Special Waste analysis plans, and any waivers of requirements (prohibitions, Special Waste management authorization, and operating requirements) at the facility until the end of the post-closure care period.

2.5.7 Manner Of Waste Placement

Solid waste will be landfilled in lifts, each having a thickness of approximately 10 to 15 feet. Prior to waste placement, previously placed daily or intermediate cover will be at least partially removed to allow leachate to drain into the leachate collection system. Waste placement will generally occur in the lowermost portion of the active cell. However, higher tiers within the landfill may be designated for waste placement during inclement weather in order to ensure operating safety and efficiency.

Solid waste will generally be placed at the toe of the active face and pushed upwards in relatively thin lifts using a compactor, bulldozer, or other appropriate heavy equipment. Heavy equipment will not be allowed to operate directly above the liner and leachate drainage and collection system until at least 5 feet of waste covers the landfill floor in order to not overstress these landfill components. Therefore, the initial lift of solid waste over the landfill floor will be pushed over the top of the active face.

The first 5 feet of solid waste on the landfill floor will be free of construction and demolition debris and other debris that could damage the underlying geotextile. Alternatively, the first lift can consist of 18-inches of soil or fine-grained waste (e.g. dewatered sludge, contaminated soil, foundry sand, etc.). The first lift will be carefully placed in order to prevent tears and excessive wrinkles in the geotextile.

The waste will be compacted using landfill compactors or bulldozers to minimize void space and settlement unless precluded by extreme weather conditions to meet the requirements of 35 IAC 811.105. Waste slopes that remain longer than 60 days following placement will be no steeper than 4 horizontal to 1 vertical.

RESOLUTION NO. 2013--

A resolution requesting and directing Dewitt County States Attorney to prepare and file, correspondence on behalf of the Dewitt County Board , to the Illinois Pollution Control Board (IPCB) declaring that the Dewitt County Board has an interest in the outcome of IPCB case no. 2013-022: and Requesting that 39.2 of the Il Environmental Protection act be fully enforced by the IPCB according to its terms; and declaring to the IPCB that the Dewitt County Board believes the new Chemical Waste Unit at issue requires siting authority from the Dewitt County Board, pursuant to 415 ILCS 5/39.2.

WHEREAS, the Dewitt County Board has concerns regarding Clinton Landfill #3: and

WHEREAS, the Dewitt County Board deems it in the best interests of the County and the health, safety and welfare of its citizens to send correspondence to the clerk of the IPCB in case no. 2013-022, expressing the County Board's concerns.

NOW THEREFORE, BE IT RESOLVED BY THE DEWITT COUNTY BOARD, OF DEWITT COUNTY, that:

A. The Dewitt County States Attorney is requested and directed to prepare and file forthwith correspondence on behalf of the Dewitt County Board in IPCB case no 2013-022 addressed to: John Therriault, clerk, Illinois Pollution Control Board, 100 West Randolph Street, James R Thompson Center, Suite 11-500, Chicago, Il 60601-3218 and

B. Acknowledging that the Dewitt County Board has a duty to take and order suitable and proper measures for the protection of the Dewitt County Board, Dewitt County and its citizens in the IPCB case no 2013-022: and

C. Declaring that the Dewitt County Board has an interest that may be affected by a decision of the IPCB case no. 2013-022: and

D. Requesting that section 39.2 of the Il Environmental Protection act (415 ILCS 5/39.2) be fully enforced by the IPCB according to its terms, no more and no less: and

E. Declaring to the IPCB that the Dewitt County Board believes the new Chemical Waste Unit at issue in the IPCB case no 2013-022 requires local siting authority from the Dewitt County Board pursuant to 415 ILCS 5 /39.2.

Be it further resolved that the County Boards Attorney is requested and directed to take such further action as may be necessary to effectuate this resolution.

Pursuant to vote of the members of the Dewitt County Board the vote for passage of this resolution is as follows:

By ayes and Nayes

Ballenger	NO	Pruser	NO
Brown	Yes	Redman	NO
Daugherty	Yes	Savage	Yes
Hoffman	Yes	Tucker	Yes
Koons	Yes	Whitted	NO
Newburg	NO	Wissmiller	Yes

The voting being 7 Ayes and 5 Nayes and the vote having met the required majority of the county board members holding office is declared passed this 14th day of November, 2013

Sherrie Brown

Sherrie Brown, County Board Chairperson

ATTEST:

Dana Smith

Dana Smith, County Clerk

COUNTY OF DEWITT, STATE OF ILLINOIS

IN RE: SITING APPLICATION OF CLINTON LANDFILL, INC.

Proceedings had on July 11, 2002 at 201 West Washington Street, Clinton, DeWitt County, Illinois, commencing at the hour of 1:00 P.M. before CHARLES F. HELSTEN, duly appointed hearing officer.

PRESENT: ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.
BY: Brian J. Meginnes, Esq.
416 Main Street, Suite 1400
Peoria, Illinois 61602-1153
On Behalf of Clinton Landfill, Inc.

HODGE, DWYER, ZEMAN
BY: Christine G. Zeman, Esq.
3150 Roland Avenue
Springfield, Illinois 62705-5776
On Behalf of the County Staff.

DEWITT COUNTY STATE'S ATTORNEY'S OFFICE
BY: Clark Rogers, Esq.
210 West Washington Street
Clinton, Illinois 61727
On Behalf of the DeWitt County Board.

DeWitt County Board Members:
Pete Daugherty, Roland Schumaker,
Ron Ferguson and Terry Ferguson.

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proposed sited facility.

And we also have a contract for purchase of this agricultural property located due north of the proposed landfill.

Q Ron, will the proposed expansion landfill be treating, storing or disposing of hazardous waste?

A No, it will not.

Q Therefore, criteria seven of Section 39.2 of the Act does not apply to this expansion landfill?

A That's correct.

Q Now, Ron, what is described in section 2.5 of the siting application?

A The operating plan.

Q And what siting criterion does it address?

A Addresses criterion two, which states the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

Q And what is the operating plan?

A It describes how the facility will be operated in order to ensure compliance with the facility's permits and with appropriate regulations. The operating plan becomes a part of the facility permit issued by IEPA.

Equipment operators and laborers will operate earth handling equipment, perform repairs and maintenance tasks and conduct other activities as are directed by the facility manager.

Q Does the operating plan provide for a training program for these personnel?

A Yes, it does. Appendix 2.5-1 of the application personnel training program outline is included in the application.

This program details the routine and annual training requirements to be provided to employees at the landfill.

Q And what types of waste will be accepted at the expansion landfill?

A Municipal solid waste; commercial and industrial nonhazardous waste; construction and demolition debris; nonhazardous special waste and certified non-special waste all will be accepted.

Certain waste with free liquid may be accepted only if they're solidified on-site with appropriate reagents. Otherwise, waste with free liquids may not be accepted at the site.

Q What other types of waste will not be accepted?

A Hazardous waste as defined by Illinois Administrative Code Title 35, Section 721, will not be accepted. Radioactive waste will not be accepted. Waste containing PCBs regulated by the Toxic Substances Control Act will not be accepted. Potentially infectious medical waste will not be accepted. Asbestos-containing materials will not be accepted.

White goods components, landscape waste, lead acid batteries and intact tires will not be accepted at the landfill.

Q Will there be a formal load checking program at the expansion landfill?

A Yes. A load checking program will be implemented to detect and discourage attempts to dispose of unauthorized waste at this facility.

All loads of special waste arriving to the facility will be checked for the presence of unacceptable materials.

In addition, at least three randomly selected loads of solid waste will be checked each week. The randomly selected loads will be discharged at a designated location and reviewed for unacceptable materials.

If unacceptable materials are suspected, the operator will notify the generator, hauler or other responsible party to determine the identity of the waste. Nonconforming materials will be shipped off-site to appropriate facilities.

Q You mention the facility would accept special waste. Would you tell us what are special wastes.

A Special wastes are nonhazardous industrial wastes designated by IEPA to have special management procedures such as chemical analysis and recordkeeping. The wastes are disposed in the landfill under the same manner as general refuge.

Q Will there be special procedures at the landfill for management of special waste?

A Yes. All special wastes will be required to be accompanied with the manifest. It will be designating the generator, the hauler and waste information as required by IEPA.

All special waste will require permitting review by Clinton Landfill and development of a profile identification record prior to the shipment, any shipment, to the facility. The special waste will require chemical analysis as required by IEPA

the facility's waste analysis plan.

And then as I previously mentioned, all special wastes entering the facility will be inspected for any nonacceptable wastes.

Q Would you please describe for us the proposed acceptance criteria for special waste at the expansion landfill.

A Yes. Special waste will have the following criteria to meet:

They must not contain a listed hazardous waste or PCBs in concentrations regulated by the Toxic Substances Control Act; must not contain asbestos-containing material; must not exhibit the characteristic of hazardous waste as defined by Illinois Administrative Code Title 35, Section 721; also must not contain total phenol greater than 1000 parts per million.

Q Would you please describe for us the manner of waste placement at the expansion landfill.

A Yes. Solid waste will be landfilled in lifts generally 10 to 15 feet in thickness.

Prior to waste placement previously placed daily or intermediate cover soil will be at least partially removed to allow for leachate.

think, would need to be approved. Although we believe that they would do that as long as we could support the additional weight and wouldn't cause a problem. But I would think we would have to do that.

Q With respect to what you are talking about there, the weight, that would be a slope stability analysis, would it not?

A Yes, in addition to other factors.

Q Have you done slope stability analysis and active waste slope for the proposed landfill?

A Yes.

Q Is it in the siting application?

A It is. And I believe George's testimony will discuss that.

Q Okay. You talked about the fact that this landfill will not accept hazardous waste --

A Yes.

Q -- and will not be a permitted hazardous waste facility. The ordinance itself allows two different methodologies to address that point.

Do you recall which part of the ordinance you utilized for that purpose, either certification or a plan?

A I don't recall.

Q Does the siting application include certification that no hazardous waste will be accepted?

A Yes. We do have that in there.

Q With respect to the examples that you gave where the existing landfill apparently inadvertently accepted the five drums of waste, what kind of hazardous waste was that?

A Um, I believe it was a volatile. I don't recall exactly the specifics.

Q How long after it was received did you receive the call from the generator apprising you of that?

A It was a number of days, four or five days, when we received the phone call. And they were intact containers.

Q And you had the documents or something else to show exactly where that material had been?

A Yes. We knew the area that the waste was placed.

And we first cordoned off the area, had our Environmental Affairs Assistant V.P. go down to oversee the activities and removal of the drums. We also did on-site testing just to confirm that all of

Uh, how long will those operate? I mean, after the site is closed will those pumps continue to operate or are they allowed to shut down then?

MR. EDWARDS: They would be operating through the post closure care period, which is 30 years if liquids are present. And after the post closure period is completed then the system can be shut down.

But, yes, they would operate 30 years after your final volume of waste goes in there. We're anticipating that's 45 years.

So for 75 years they would be operating.

MR. FERGUSON: Well, I guess we'll sit around here and wait to see if that happens.

MR. EDWARDS: We will definitely need to replace those obviously periodically.

HEARING OFFICER HELSTEN: Any further questions from the committee?

Mr. Ferguson, (s.i.c.) just so I'm clear with respect to criterion 7, you have certified that you're not gonna accept hazardous waste at the facility, correct?

MR. EDWARDS: Yes.

HEARING OFFICER HELSTEN: But

notwithstanding that situation, your emergency response and contingency plan also addresses the event of receipt of hazardous waste, correct?

MR. EDWARDS: Yes. That is correct.

And I'm glad you did point that out. That's a part of that specific situation you're talking about is a part of the criterion 2. The only thing that is not applicable is the specific emergency response plan.

HEARING OFFICER HELSTEN: But you both certified pursuant to the ordinance and you have a back-up emergency response and contingency plan in the unlikely event that something is received?

MR. EDWARDS: Yes.

HEARING OFFICER HELSTEN: That's all.

Mr. Meginnes, do you have any?

MR. MEGINNES: I have no further questions.

HEARING OFFICER HELSTEN: Thank you, Mr. Edwards. You're excused.

MR. MEGINNES: You want to take a five-minute break?

HEARING OFFICER HELSTEN: Madam court reporter, what do you want to do? Do you want to go a little while or do you want a quick five-minute

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLINTON LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-60
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
	)	
Respondent.	)	

EXHIBIT 5

IEPA Fact Sheet for Clinton Landfill 3

Illinois Environmental Protection Agency

Pat Quinn, Governor

Community Relations - Fact Sheets

Clinton Landfill 3

Site Summary

Clinton, Illinois
DeWitt County
Illinois EPA 0390055036
Champaign Region

Site Description

Total Acreage: 265.5

Congressional District 13
House 101 / Senate 51

NOTE: Definitions for the italicized words listed here are included in the Glossary.

Clinton Landfill 3 is located in unincorporated DeWitt County, approximately 1¼ miles south of the City of Clinton. The facility covers 265.5 acres and has a total waste disposal area of 157.5 acres. When filled to its permitted design capacity, the maximum height of the landfill will be approximately 150 feet above the surrounding topography. The landfill is owned and operated by Clinton Landfill, Inc., which is part of the PDC/Area family of companies.

Clinton Landfill 3 consists of two parts: the 135-acre Municipal Solid Waste Unit (MSWU) and the 22.5-acre Chemical Waste Unit (CWU). [See Figure 1.] The MSWU is permitted to accept both municipal waste and non-hazardous special waste, while the CWU is devoted exclusively to non-hazardous special waste. The waste capacity of the MSWU is approximately 29 million cubic yards and the waste capacity of the CWU is approximately 2.5 million cubic yards

Site History

In March 2007, the Illinois EPA's Bureau of Land (BOL) issued the original development permit for Clinton Landfill 3 approving the development of a non-hazardous waste landfill. When constructed and permitted for operation, this landfill would be allowed to accept municipal solid waste and non-hazardous special waste.

In January 2010, BOL issued a permit approving a redesign of 22.5 acres in the southwest corner of Clinton Landfill 3 which subdivided the landfill into the MSWU and the CWU and included additional environmental safeguards for the CWU. The permit issued in January 2010 also gave preliminary approval for two new non-hazardous special wastes to be disposed of in the Chemical Waste Unit: 1) manufactured gas plant (MGP) waste exceeding the Toxicity Characteristics Leaching Procedure (TCLP) thresholds, and 2) polychlorinated biphenyl (PCB) wastes, requiring approval by the US EPA under the federal Toxic Substances Control Act (TSCA).

A permit allowing waste disposal to begin in the MSWU was issued in September 2008 and, as of June 2013, approximately 29 acres of the MWSU have been permitted for waste disposal. Waste disposal in the CWU was permitted to begin in April 2011 and, as of June 2013, approximately 6 acres of the CWU have been permitted for waste disposal.

Status of Request with US EPA to Accept PCB Waste

Polychlorinated biphenyl (PCB) wastes are regulated under the federal Subpart D of 40 CRF 761 regulations, which were promulgated under the federal Toxic Substances Control Act (TSCA). The US EPA administers the TSCA program directly and the disposal of some types of PCB waste require prior approval from the US EPA.

In October 2007, the operator of Clinton Landfill 3 submitted an application to US EPA

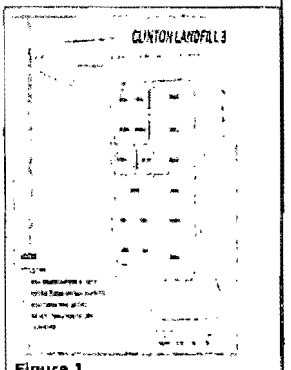


Figure 1

Related Documents

- August 14, 2014 Inspection Report
- July 31, 2014 Permit Modification No. 47, Cover Letter and Permit
- Responses to Comments on Clinton Landfill #3 Organic Detection Summary
- April 28, 2014 Inspection Report
- Discussion of Organic Detections in 2013
- April 2014 Groundwater Split Results
- Summary of 2nd Quarter 2014 Groundwater Monitoring
- April 1-2, 2014 Groundwater Inspection Report
- February 18, 2014 Inspection Report
- December 9, 2013 Inspection Report
- October 28, 2013 Inspection Report
- August 29, 2013 Inspection

Region 5 in Chicago requesting to be allowed to dispose PCB waste in Clinton Landfill 3's CWU. US EPA has made more information about this request, including the complete administrative record, site updates and technical documents for Clinton Landfill available online. As of May 2014, PDC's request to US EPA to be allowed to dispose this type of PCB waste in the CWU has not been approved.

Illinois EPA's Experience in Testing Groundwater for PCBs

Starting in 1984, Illinois EPA began sampling all the Community Water Supply (CWS) wells across the state for PCBs, along with a suite of other parameters. As of June 2013, PCBs have never been confirmed to be present in any CWS on a state-wide basis, the Mahomet Aquifer System, or in the Clinton CWS wells as documented in this groundwater monitoring fact sheet.

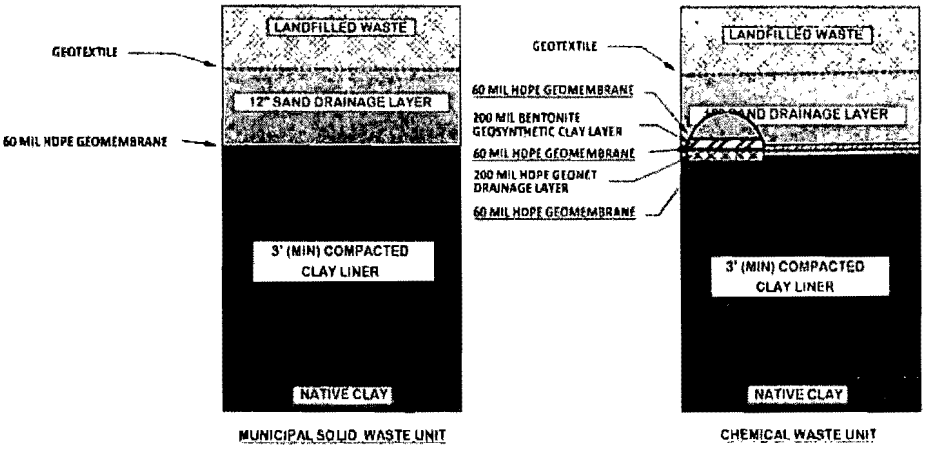
Design of MSWU's Liner and Leachate Drainage Systems

The design of the liner and *leachate* drainage systems for the MSWU is one that is frequently used at non-hazardous waste landfills in Illinois. Starting from the bottom and going up, the liner consists of a layer of compacted clay three feet thick overlain by a 60-mil high density polyethylene (HDPE) geomembrane. The purpose of the liner is to stop leachate from migrating out of the waste and into the surrounding environment. On top of the liner is the leachate drainage layer which consists of a one foot layer of sand overlain by a geotextile. The purpose of the sand layer, in conjunction with a network of pipes known as the leachate collection system, is to prevent the height (or head) of leachate standing on the liner from exceeding one foot. The pipes conduct the leachate to a sump where it is pumped out of the landfill, into storage tanks, and, ultimately, either solidified and placed back into the landfill or trucked off-site for treatment. The geotextile on top of the sand layer serves as a filter to prevent clogging by keeping fine particles out of the sand layer.

Report

- June 10, 2013 Inspection Report
- April 16, 2013 Inspection Report
- January 18, 2013 Inspection Report
- Clinton Landfill 3 Permit Applications
- Clinton Landfill 3's Most Recent Permit Letter
- Clinton Landfill 3 - 2013 Groundwater Monitoring Overview
- Quarterly Groundwater and Leachate Monitoring Data
- Illinois EPA's Experience in Testing Groundwater for PCBs

CLINTON LANDFILL NO. 3 - TYPICAL FLOOR LINER SECTIONS



CWU Design's Additional Environmental Safeguards

The design for the CWU, which was approved in the permit issued by the Illinois EPA BOL in January 2010, exceeds the requirements for liner and *leachate* drainage systems in the non-hazardous waste landfills in Illinois. This design includes the same four layers of materials, that comprise the MSWU's liner and leachate drainage systems, but it also includes an additional four layers.

Under CWU design, again starting at the bottom, there is a three foot layer of compacted clay and a 60-mil HDPE geomembrane. These two layers constitute the secondary liner. On top of the secondary liner, there is a 200-mil HDPE geonet that serves as the secondary leachate drainage layer. On top of the geonet is a 200-mil bentonite geosynthetic clay liner (GCL) sandwiched between two layers of 60-mil HDPE geomembrane. This geomembrane/GCL/geomembrane sandwich serves as the primary liner

system. Finally, on top of the primary liner system is the primary leachate drainage system composed of a foot of sand overlain by a geotextile.

One of the advantages of the CWU design over the MSWU design is the redundancy provided by the secondary liner. That is, if the primary liner system were to leak, the secondary liner is there to back it up to prevent *leachate* from escaping into the environment. Also, if leachate constituents were found in the secondary leachate drainage system, that would provide an early warning that the primary liner system has failed. For this reason, the secondary leachate drainage system is sometimes called the witness zone.

Groundwater Monitoring at Clinton Landfill #3

At Clinton Landfill 3, the groundwater flows generally from north to south, so the *background wells* are on the north side of the landfill. There are four separate groundwater units at Clinton Landfill 3 and each unit has its own set of monitoring wells. The Mahomet Aquifer System is present across central Illinois and is located much deeper than these groundwater units. At the Clinton Landfill 3 location the groundwater flow for the Mahomet Aquifer System is generally from the southeast to the northwest.

Currently, there are a total of 15 *upgradient monitoring wells* and 39 *downgradient monitoring wells* that monitor the groundwater around the MSWU and the CWU of Clinton Landfill 3. All of these groundwater monitoring wells are sampled and analyzed for 71 organic parameters, two times a year, and for 14 inorganic parameters, four times a year. The groundwater monitoring wells located downgradient of the CWU are also monitored for an additional 21 organic parameters two times a year. In addition to the groundwater monitoring wells, there are 12 *piezometers* around the landfill.

Clinton Landfill 3 uses background levels taken from analytical results from their upgradient monitoring wells over a one year period. A statistically calculated *Applicable Groundwater Quality Standard* or AGQS value is the background value for each parameter at the facility. At Clinton Landfill 3, the *Maximum Allowable Predicted Concentration* or MAPC value is equal to the AGQS value. In a situation like this, the background levels are referred to as AGQS/MAPC values.

Typically, the background level for any given chemical in a monitoring well is far lower than the Illinois Class I *Groundwater (drinking water) Standard*. As an example, the Illinois Class I Standard for dissolved chloride is 200 mg/L (parts per million), a level that is much greater than the background value for chloride at Clinton Landfill 3, where the AGQS/MAPC values for dissolved chloride are 8.5 mg/L, 51.8 mg/L, 33 mg/L, and 71 mg/L in each of the 4 separately monitored units at the facility.

The Groundwater Sampling and Analysis Plan for Clinton Landfill 3, which is contained in the *permit record*, includes specifications for: 1) groundwater monitoring program personnel and responsibilities, 2) field sampling equipment and procedures, 3) laboratory analytical methods and procedures, 4) project quality assurance, and 5) data analysis and reporting. All of the elements of the Groundwater Sampling and Analysis Plan were reviewed and approved by the Illinois EPA as part of the process of reviewing the original development permit application, which was ultimately issued in 2007, and subsequent permit applications. The Groundwater Sampling and Analysis Plan has been determined by BOL to be adequate to meet applicable regulatory requirements and guidance, and conform to best management practices (e.g., the applicable ASTM methods).

At the present time, all of the wells at the Clinton Landfill 3 are in routine *detection monitoring*. None of the facility's monitoring wells are currently in *assessment monitoring* and no *groundwater remedial actions* are being performed at the facility. The groundwater and leachate monitoring data for Clinton Landfill 3 are now available online, starting with the second quarter of 2013.

Illinois EPA's Inspections of Clinton Landfill 3

The Illinois EPA's Champaign field office is responsible for the inspections of the Clinton landfill. Unannounced inspections are conducted at least every two months. Inspections were conducted on January 18, 2013, April 16, 2013, June 10, 2013, August 29, 2013, October 28, 2013, December 9, 2013, February 18, 2014, April 1 - 2, 2014, April 28, 2014, and August 14, 2014. The purpose of the inspection is to verify that the landfill is operating in compliance with the permit that has been issued and with the State laws and regulations that apply to landfills. The active waste disposal portion of the landfill is examined to verify proper operation. A review of the records that are required to be kept is conducted during the inspection. An overall site survey is conducted looking for problems as well as issues that could manifest into problems so that preventative steps can be taken. In particular, the methane gas collection and control system, the leachate collection and storage tanks, storm water management structures, dust control, litter collection, mud tracking, inspection of incoming loads of waste and the groundwater monitoring wells are inspected. If issues or problem are found during the inspection, they are discussed with the site manager before the inspection is concluded. [illegible] additional visits to the landfill are made by the field office upon request by the Agency's [illegible]. Typically, the Bureau of Land verifies that the proper construction activities have been completed and reports [illegible] In addition to the bi-monthly inspection, additional visits to the landfill are made by the field office upon request by the Agency's permit review engineer. Typically, the field staff verifies that the proper construction activities have been completed and reports that information to the permit engineer in advance of the approval of a permit modification.

Overview of BOL Permit Process for Solid Waste Landfills

For a person or company that wants to operate a new landfill, the first step is to obtain *local siting* approval. The next step is to obtain a *BOL development permit* from the Illinois EPA's Bureau of Land (BOL), as well as permits from the Illinois EPA's Bureau of Water and Bureau of Air. The BOL development permit forms the basis for the landfill's *BOL permit record*. Any change to the BOL permit record is made through subsequent permits called *significant modifications*. After a phase has been constructed, the operator of the landfill must apply for and receive a *BOL operating permit*, a special type of significant modification, before waste can be disposed in the new phase. BOL development permits are issued for 5-year terms and must be renewed through [illegible]

applications for *permit renewal*.

The *BOL permit record* specifies the maximum extent, horizontally and vertically, to which waste may be disposed in the landfill. When these limits are reached, waste disposal must stop and the landfill operator must close the landfill out in accordance with its closure plan. When *closure* has been completed, the landfill operator submits an affidavit certifying completion of closure and construction documentation to the Illinois EPA for approval through the permit process.

After closure has been completed, the landfill operator must provide *post-closure care* for the landfill. The default minimum post-closure care period for a municipal solid waste landfill is 30 years. When the minimum post-closure care period has been reached, the landfill operator may submit an affidavit certifying completion of post-closure care to the Illinois EPA. If there is no evidence that the landfill is causing environmental problems, the Illinois EPA must approve the affidavit certifying completion of post-closure care and the BOL permit process for the landfill comes to an end.

The regulations specify that within 180 days after receiving an application for a development permit for a new landfill, the Illinois EPA must take final action on it (i.e., either approve or deny it) unless the applicant extends the review period. The regulatory deadline for taking final action on other types of permit applications for nonhazardous waste landfills is 90 days. When defects are found in a permit application, the Illinois EPA sends the applicant's consultant a draft denial letter describing the defects. The applicant then has the option of asking for a final denial letter (that could be appealed to the Illinois Pollution Control Board) or providing an addendum to the application addressing the deferts. If the applicant chooses to submit an addendum, oftentimes they also need to extend the review period so the consultant has time prepare the addendum and Illinois EPA has time to review it. If an addendum corrects all the defects in an application, the Illinois EPA must approve the permit. Before responding to an addendum that does not fully address all the remaining defects in an application, the Illinois EPA assesses whether the applicant's efforts seem to be progressing toward an approvable application. If acceptable progress is being made, another draft denial is sent; if not, a final denial letter is issued.

No more than three days before submitting a permit application to BOL, the landfill operator is required to notify the State's Attorney and the Chairman of the County Board of the county in which the subject landfill is located and each member of the General Assembly from the legislative district in which the landfill is located and the clerk of each municipality any portion of which is within three miles of the landfill.
which is within three miles of the

Overview of Groundwater Procedures at Solid Waste Landfills

The Illinois regulations for landfills go beyond the goal of protecting human health. Existing regulations use *background* levels to support the goal of "non-degradation" of existing groundwater quality. These background levels are collected from multiple upgradient monitoring wells, typically over a one or two year period and the values are statistically evaluated to reflect groundwater quality over the entire facility and for each upgradient monitoring well. Once developed, these values are used to establish the permitted *Applicable Groundwater Quality Standard* (AGQS) values and the *Maximum Allowable Predicted Concentration* (MAPC) values. Unless different background concentration levels are established these values are used as the permitted groundwater parameter concentration levels in the facility permit. Typically, the established AGQS or MAPC level for *any* given chemical in a monitoring well is far below the *Illinois Class I Groundwater (drinking water) Standard*.

When groundwater monitoring data for a landfill show that chemical concentrations exceed the AGQS value at the outer edge of the *Zone of Attenuation* (ZOA), or the MAPC within the ZOA, the State of Illinois' regulations and the landfill's permit require the landfill operator to investigate the exceedance and, if necessary, to develop and implement groundwater corrective action. The MAPC value is calculated from the AGQS value and acts as an early warning limit at the mid-point of the ZOA or 50 feet from the facility waste boundary. While the AGQS and MAPC are two separate values, it is not uncommon for a facility to have MAPC values equal to their AGQS values, as is the case with Clinton Landfill 3.

All monitoring wells at the landfill are sampled four times a year (every three months or quarterly). If any monitoring well shows *exceedances* of the levels specified in the permit conditions for any chemical it is referred to as an *observed increase*. Illinois regulations require the landfill to re-sample and confirm that the exceedance is real, and is referred to as a *confirmed increase*. It is important to understand that, under Illinois regulations, an exceedance is not the same as a violation, and an exceedance is not by itself proof of contamination from the landfill. If an exceedance is confirmed to be real, the landfill must submit an application for a significant permit modification to address the exceedance.

The significant permit modification application can either: 1) propose to demonstrate that an alternate source (not the landfill) is responsible for the exceedance, or 2) propose Groundwater Assessment Monitoring to determine the source of the exceedance. If the Agency approves the *Alternate Source Demonstration*, the monitoring well returns to routine detection monitoring. Otherwise, the Agency requires the landfill to do groundwater *Assessment Monitoring* to determine the source of the exceedance, and submit follow-up assessment monitoring reports to the Agency. If the groundwater assessment monitoring shows a release from the landfill, the landfill must propose and carry out a *Groundwater Corrective Action* plan. The landfill is then required to submit regular Corrective Action Reports.

If an upgradient well shows an exceedance, the landfill is not the likely source of the exceedance, since the direction of groundwater is toward the landfill. The landfill still has to go through the reporting procedures described above, as in any other confirmed exceedance. In general, an exceedance in an upgradient well indicates a change in the naturally occurring groundwater conditions. It is then necessary to gather enough quarterly sample results from those upgradient wells to perform standard statistical tests (approved by Illinois EPA and US EPA) that provide a more accurate estimate of those naturally occurring levels. When enough data points are gathered – a minimum of four quarters of data (one year) - a new background level may be proposed in a significant permit modification, based on those statistical tests. If Illinois EPA technical experts agree that the analysis and calculations are correct, the permit conditions are modified to reflect the new background level for that chemical in that groundwater unit.

If permit conditions are modified to set new background levels for a given chemical, those new levels would apply to all the monitoring wells in the same monitored groundwater unit, both background wells and those downgradient or side-gradient wells that look for potential releases from the landfill. In such a case, the Agency would consider any previous readings for that chemical that had exceeded the original permit conditions but do not exceed the newly set permit conditions to have been addressed acceptably.

Glossary

Alternate Source Demonstration is an attempt to prove that a source other than the landfill is responsible for Observed Increase or the Confirmed Increase in the groundwater quality. This demonstration must be submitted to the Illinois EPA as a permit application.

Applicable Groundwater Quality Standard or AGQS is the statistically determined background value of a chemical parameter for which groundwater samples are analyzed as part performing groundwater monitoring for nonhazardous waste landfills in Illinois. If the groundwater monitoring data show that an AGQS value has been exceeded at the outer edge of the ZOA, the landfill operator must investigate the exceedence and, if necessary, must develop and implement groundwater corrective action.

Assessment Monitoring collects information necessary to ascertain the nature and extent of the groundwater contamination as part of an investigation to determine whether the landfill is the source of a groundwater exceedence. The scope of this investigation is proposed by the landfill operator in a permit application, and at a minimum must include more frequent sampling of the well(s) where confirmed exceedences occurred and more frequent sampling of any surrounding wells. The landfill operator is also required to sample for the parameters of concern, Illinois Class I Groundwater Standard parameters and for federal USPEA parameter lists. The placement of additional monitoring wells may be necessary to determine the source and extent of contamination. The operator has a specific time frame in which to conduct Assessment Monitoring, and submit an analysis of the investigations results to the Illinois EPA for review and approval.

Background is the concentration of any parameter in groundwater that has not been affected by the facility, but also reflects the naturally occurring fluctuations in parameter concentrations. Statistical analysis of results from all the background wells (upgradient monitoring wells) is used to set the initial groundwater parameter levels in the facility permit.

Class I Groundwater (drinking water) Standard is the concentration of any specific parameter listed by the state as the groundwater quality value for a potable (drinkable) water source. These standards are considered the minimum for safe drinking water in the state of Illinois.

Closure is done after waste disposal at a landfill has stopped and typically consists of constructing the final cover system and establishing vegetation on top, as well as completing construction of any environmental safeguards that will be needed during post-closure care that have not yet been installed (e.g., the final phase of the gas collection system). After the Illinois EPA approves certification of completion of closure, the landfill operator no longer needs to provide financial assurance for closure.

Confirmed Increase is a change in groundwater quality, documented by a second sampling event, in which: 1) the AGQS value for a given parameter has been exceeded at the outer edge of the ZOA, 2) the MAPC value for a parameter has been exceeded at the midpoint between the waste boundary and the outer edge of the ZOA, or 3) the concentrations for a parameter have shown a progressive increase over eight consecutive quarterly monitoring events. When there is a confirmed increase, the landfill operator must take additional groundwater samples within 90 days of the original sampling event and submit this information to the Illinois EPA within 180 days after the original sampling event.

Detection monitoring is the routine groundwater monitoring program in which groundwater samples are collected quarterly to monitor and assess groundwater quality at the facility.

(BOL) Development Permit is a permit from the Illinois EPA's Bureau of Land that the operator of a proposed new landfill must obtain before constructing the landfill. The information that must be provided in an application for a BOL development permit for a new non-hazardous waste landfill includes: 1) a demonstration that the landfill meets the location standards (e.g., it is not within the 100-year floodplain or too close to an airport or homes, etc.), 2) detailed designs for the landfill's environmental safeguards (i.e., the liner system, leachate drainage, collection and management systems, final cover system, surface water control structures, and leachate, gas and groundwater monitoring programs), 3) construction quality assurance programs for the environmental safeguards, 4) a detailed description of the landfill' operating procedures, 5) a demonstration that the landfill passes the *groundwater impact assessment* or (GIA), and 6) plans and cost estimates for closure and post-closure care of the landfill.

Downgradient Monitoring Wells are placed at locations where groundwater could be affected by the landfill. They are intended to detect any releases of contaminants from the landfill into the groundwater before the contaminant plume has migrated off-site. Levels of chemicals in these wells are compared to the levels in the background wells to determine whether any chemicals are present at significantly higher levels than background.

Exceedance, also called an observed increase, in groundwater quality has occurred when routine quarterly groundwater analytical results show that: 1) at the outer edge of the ZOA, the concentrations for a given parameter are greater than the facility's AGQS value, 2) at the midpoint between the waste boundary and the outer edge of the ZOA, the concentrations for a given parameter are greater than the facility's MAPC value, or 3) the concentrations for a parameter have shown a progressive increase over eight consecutive quarterly monitoring events. Exceedances become confirmed increases if the data are reaffirmed by additional testing and analysis.

Groundwater Corrective Action or *Groundwater Remedial Action* is the work done to clean up contaminated groundwater or to prevent contaminated groundwater from migrating offsite. The landfill operator must perform groundwater corrective action if, through assessment monitoring, the groundwater is determined to have been contaminated by the landfill.

Groundwater Impact Assessment or GIA uses a contaminant transport model to predict the impact that a landfill is likely to have on groundwater quality, taking into account landfill's hydrogeologic setting and its design. To pass the GIA, the modeling must show that, 100 years after the facility is closed, the concentrations of all parameters monitored in groundwater will not be greater than the facility's background (AQGS) value at the outer edge of the zone of attenuation.

Leachate is liquid, primarily water, that has been in direct contact with waste. In its contact with waste, leachate often picks up contaminants. Therefore, if leachate is not properly controlled, it may contaminate groundwater or surface water.

Local Siting is approval from a local unit of government for a prospective landfill. Local siting must be obtained for a proposed landfill before an application for a development permit is submitted to the Illinois EPA's Bureau of Land. If the potential landfill is in an incorporated area, local siting is granted by the government of the municipality where it is located. Local siting for a proposed landfill in an unincorporated area is obtained from the county board of the county in which the landfill is located. The local siting process takes between approximately one year and at least one public hearing must be held as part of it.

Maximum Allowable Predicted Concentration - MAPC value is a limit, calculated from the AGQS value of for each chemical parameter for which groundwater is analyzed, in the middle of the zone of attenuation (i.e., at either 50 feet from the facility waste boundary or the midpoint between the waste boundary and the facility's property boundary). If the groundwater monitoring data show that an MAPC value for a parameter has been exceeded in the middle of the ZOA, a type of observed increase to groundwater quality has occurred. MAPC values are usually greater that their AGQS counterpart but it is not too uncommon for the MAPC values to be equal to the AGQS values.

Observed Increase, also called an exceedance, in groundwater quality has occurred when routine quarterly groundwater analytical results show that: 1) at the outer edge of the ZOA, the concentrations for a given parameter are greater than the facility's AGQS value, 2) at the midpoint between the waste boundary and the outer edge of the ZOA, the concentrations for a given parameter are greater than the facility's MAPC value, or 3) the concentrations for a parameter have shown a progressive increase over eight consecutive quarterly monitoring events. Observed increases become confirmed increases if the data are reaffirmed by additional testing and analysis.

[BOL] Operating Permit is a permit from the Illinois EPA's Bureau of Land that the operator of a non-hazardous waste landfill must obtain before beginning waste disposal operations in a new phase of the landfill (i.e., placing waste on newly constructed liner). The applications for operating permits must include documentation that all the environmental safeguards (e.g., the liner, leachate drainage and collection systems, and groundwater and gas monitoring points) for the new phase have been installed in accordance with the designs approved in the development permit. As part of processing applications for operating permits, an inspection is performed by the Illinois EPA's Field Operation Section, or delegated county, to confirm that the new phase has been constructed as portrayed in the application. Operating permits are only issued if: 1) the Illinois EPA determines that the new phase has been constructed in accordance with the designs approved by the development permit based on the review of the construction documentation and completion of the site inspection, and 2) the landfill operator has posted financial assurance with the Illinois EPA in a an amount sufficient to hire a contractor to close the new phase and to provide post-closure care for it.

[BOL] Permit Record is the commitments made in the original BOL development permit as modified by any subsequent permit modifications and the permit conditions imposed by the Illinois EPA.

Permit Renewal extends the term of a landfill's permit another 5 years. The applications for permit renewal must include updated GIA's, a contour map based on a recent survey showing the landfill's current state of development, and new cost estimates for closure and post-closure care.

Piezometers are wells that are used measure groundwater elevation (i.e., the water table) to help determine the direction and rate of groundwater flow. Groundwater samples are not usually collected from piezometers.

Post-Closure Care is performed by the landfill operator after closure has been completed and consists of: 1) maintaining the final cover system and surface water control structures, 2) collecting and managing leachate and landfill gas, 3) monitoring leachate, gas and groundwater, and 4) any taking necessary groundwater or gas remedial actions.

Significant Modification is a permit that approves changes a landfill's permit record.

Upgradient Monitoring Wells, also known as "background" wells, are placed at locations where groundwater is flowing toward the landfill so that they measure the naturally occurring groundwater conditions which are unaffected by the landfill. They also measure the chemistry of groundwater that is moving toward the landfill. Groundwater chemistry has naturally occurring fluctuations, so statistical analysis of results from all the background wells is used to set the initial target levels in the permit conditions for each background well. The target level for each chemical in each well is set to reflect the existing background conditions in the groundwater unit that is measured by that well.

Uppermost Aquifer means the first geologic formation above or below the bottom elevation of a constructed liner or wastes, where no liner is present, that is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

Zone of Attenuation or ZOA is a three dimensional region that extends vertically from the top of the ground surface to the bottom of the *uppermost aquifer*. In the horizontal plane, the ZOA extends outward 100 feet from a landfill's waste boundary or

to the facility property line, whichever is closer. The waste volume is encompassed by the ZOA but excluded from it. The outer edge of the ZOA is the point of compliance with respect to groundwater quality. Thus when groundwater monitoring data for a landfill show that chemical concentrations exceed the background value at the outer edge of the ZOA, the State of Illinois' regulations and the landfill's permit require the landfill operator to investigate the exceedence and, if necessary, to develop and implement groundwater corrective action.

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