

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
WASTE MANAGEMENT OF)	
ILLINOIS, INC.)	
)	
Petitioner,)	
)	PCB 25-9/25-10
)	(Permit Appeal - RCRA)
)	(Consolidated)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent.)	

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board Waste Management of Illinois, Inc.'s Motion in Limine to Limit Proceedings to Issues Raised in Appeal, a copy of which is herewith served upon you.

Dated: March 26, 2026

Waste Management of Illinois, Inc.

/s/ Kristen L. Gale

One of its Attorneys

Jennifer T. Nijman
 Kristen L. Gale
 Craig S. Thedwall
 NIJMAN FRANZETTI LLP
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SERVICE LIST

Don Brown, Clerk of the Board
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Assistant Attorney General
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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Waste Management of Illinois, Inc.'s Motion in Limine to Limit Proceeding to Issues Raised in Appeal was electronically filed on March 26, 2026 with the following:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
don.brown@illinois.gov

and copies were sent via e-mail on March 26, 2026 to the parties on the service list.

Dated: March 26, 2026

Waste Management of Illinois, Inc.

/s/ Kristen L. Gale
One of its Attorneys

Jennifer T. Nijman
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NIJMAN FRANZETTI LLP
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)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent.)	

**WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION IN LIMINE TO LIMIT
PROCEEDING TO ISSUES RAISED IN APPEAL**

Pursuant to 35 Ill. Adm. Code 101.500 and 101.502, Petitioner, Waste Management of Illinois, Inc. ("WMIL"), requests that the Hearing Officer enter an order limiting this matter to the issues that are the basis for WMIL's appeal. WMIL's appeal is limited to Illinois Environmental Protection Agency's ("Illinois EPA" or "Agency") failure to follow the regulatory procedure for modifying a permit by impermissibly using a Class 1* permit modification for a significant modification, extending the post closure care without regulatory authority, and precluding WMIL from requesting reductions in financial assurance. As such, evidence related to other issues, including but not limited to the operations and conditions of the Laraway Recycling and Disposal Facility ("Laraway RDF"), are not relevant. In support of its Motion, WMIL states as follows:

Background

1. The Laraway Recycling and Disposal Facility (“Laraway RDF”) is located at 21233 W. Laraway Road, Joliet, Will County, Illinois, and is permitted by a Resource Conservation and Recovery Act (“RCRA”) permit.

2. Throughout its permit history, Illinois EPA has modified the Laraway RDF’s RCRA permit on various occasions, each time including all applicable provisions into the modification. Illinois EPA issued the most recent modified RCRA permit on December 11, 2023. *See* RCRA Permit, December 11, 2023 Modification, Exhibit A (“2023 Permit”). The 2023 Permit incorporated all prior substantive provisions. Exh. A, relevant pages attached,¹ p. 1 (“This permit also incorporates all previous and current non-hazardous waste disposal activities at the facility.”).

3. The 2023 Permit covers (i) post-closure care for closed Hazardous Waste Management Units (“Areas 1 and 2”), (ii) non-hazardous solid waste landfills, and (iii) corrective action activities for historical solid waste management units identified as the North Stack and South Stack. *Id.*, General Facility Description, Exh. A, pages 1-2. Only Areas 1 and 2 are at issue in WMIL’s appeal.

4. Between 2008 and 2024, WMIL requested, and Illinois EPA approved, annual reductions in the amount of financial assurance based on yearly progress toward 30 years of post-closure care for Areas 1 and 2. WMIL Petition to Appeal, PCB 25-9, pp. 5 – 6.

5. Without notice to WMIL, on July 29 and July 30, 2024, Illinois EPA issued a Class 1* permit modification to extend the post-closure care period for Areas 1 and 2 for an additional 30 years, required financial assurance in the new amount representing 30 years of post-closure care costs, and directed that 30 years of financial assurance must be maintained on a rolling basis

¹ Exhibits for this motion contain excerpts of relevant pages. Each full Exhibit is in WMIL’s Appeal, PCB 25-9, as Exh. A, B, and C.

without reduction. *See* July 29th Permit Modification, relevant pages attached as Exh. B p. 2, Attachment D, p. D-1; July 30th Final Decision, relevant page attached as Exh. C, p. 4 (together, the “Final Determinations”).

6. After receiving extensions from the Board, on December 4, 2024, WMIL filed this appeal on the grounds that Illinois EPA does not have the authority to extend post-closure care beyond the initial 30-year period, may not use a Class 1* permit modification to extend post-closure care and increase financial assurance, cannot preclude WMIL from pursuing its right to annual financial assurance reductions under Illinois regulations, and should be equitably estopped from imposing increased financial assurance obligations on WMIL. *See* WMIL Appeal, PCB 25-9, pp. 2 – 3.

The Only Relevant Issues on Appeal are Whether Illinois EPA Correctly Followed the Regulatorily Proscribed Permit Modification Procedures

7. The Hearing Officer may grant motions in limine to limit proceedings to the issues that are relevant to the issue at hand. *See Sierra Club v. Midwest Generation, Inc.*, PCB13-15, 2022 ILL. ENV LEXIS 235, ¶¶ 21 – 22 (Dec 15, 2022) (upholding the Hearing Officer’s grant of a motion in limine to exclude “inability to pay” arguments by the plaintiff as irrelevant because the defendant had not raised that issue).

8. In a permit appeal, the only issues relevant are those related to “whether the Agency correctly interpreted and administered regulations” *Aqua Illinois Inc., v. IEPA*, PCB 23-12, ¶¶ 14, 19. (December 15, 2022). Accordingly, the only relevant evidence is information that is determinative of the permit appeal. *See People v. Morgan*, 197 Ill. 2d 404, 455-56 (2001), citing *People v. Illgen*, 145 Ill. 2d 353, 364 (1991) (“Evidence is only relevant “if it has any tendency to make the existence of consequence to the determination of an action either more or less probable...”). Further, the Illinois Supreme Court has held that “[i]t is axiomatic that ‘discovery

should only be utilized to ‘illuminate the actual issues in the case,’” and that the pleadings and defenses determine the appropriate scope of relevant discovery. *Sander v. Dow Chem. Co.*, 166 Ill. 2d 48, 64 (1995) quoting *Owen v. Mann*, 105 Ill. 2d 525, 530 (Ill. 1985).

9. Here, the only relevant issues are the issues identified in WMIL’s appeal of Illinois EPA’s Final Determinations, which are: Illinois EPA’s unilateral extension of post-closure care under 35 Ill. Admin. Code Part 724 and 35 Ill. Admin. Code 703.282; Illinois EPA’s use of a Class 1* permit modification to extend post-closure care and financial assurance requirements under 35 Ill. Admin. Code Part 703; and Illinois EPA’s refusal to allow annual financial assurance reductions that WMIL has relied upon for years under 35 Ill. Admin. Code 724, Subpart H. *See* WMIL Appeal, PCB 25-9, pp. 2 – 3.

10. Accordingly, this matter, including further proceedings and discovery, should be limited to Illinois EPA’s interpretation and administration of each of these regulations. Without such a limitation the Board risks allowing the issues on appeal to improperly expand beyond the stated basis in the Final Determinations and allowing the parties to put evidence and arguments before the Board that the Board cannot consider.

11. This motion is appropriate at this time to control the scope of the ongoing appeal proceedings. It has become clear to WMIL that Illinois EPA seeks to make arguments in the appeal that are unrelated to the regulations at issue, including arguments about whether conditions at the Laraway RDF warrant a permit extension. But that is not the issue on appeal. The only issue before the Board is whether Illinois EPA followed its own regulatory process for undertaking a permit modification. The Hearing Officer should not permit the Agency to perform an end run around their own regulations by expanding the appeal beyond the scope of the pleadings.

WHEREFORE, for the reasons stated above, WMIL requests that the Hearing Officer grant this Motion *In Limine* and enter an order limiting the issues of this appeal to whether the Agency correctly interpreted and administered regulations concerning the extension of post-closure care, permit modification classification, and financial assurance.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS,
INC.

Petitioner,

By: /s/ Kristen L. Gale
One of its Attorneys

Kristen L. Gale
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List of Exhibits

Exhibit A: 2023 Permit

Exhibit B: July 29th Permit Modification

Exhibit C: July 30th Final Decision

EXHIBIT A



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/524-3301

DEC 11 2023

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7022 1670 0001 4381 6903

Waste Management of Illinois, Inc.
Attn: Ian Johnson
21233 West Laraway Road
Joliet, Illinois 60436

Waste Management of Illinois, Inc.
Attn: James Wilson
700 East Butterfield Road, 4th Floor
Lombard, Illinois 60148

Re: 1970450002 – Will County
Laraway Recycling and Disposal Facility
ILD074411745
Date Received: August 10, 2022
Log No. B-141R-M-169
RCRA Permit File (24A)
Permit Approval

Dear Mr. Johnson and Mr. Hopkins:

This letter is in response to the August 10, 2022 document submitted by Ms. Lisa Grassl of Waste Management of Illinois, Inc. on behalf of Laraway Recycling and Disposal Facility (Laraway). In accordance with Title 35 Illinois Administrative Code (35 IAC) Part 703, the subject document was submitted and reviewed as a Class 1* permit modification request and addresses the abandonment of well G1A5 and the construction of well G281.

The Illinois EPA has reviewed the information and hereby approves the subject submittal as a modification to the approved RCRA Permit (Permit). A revised Permit is attached to this letter. Attachment A to this letter contains a summary of the changes made to the Permit. The information in the subject submittal has been incorporated into Laraway's approved permit application. Operations at Laraway must be in accordance with the revised Permit. Pursuant to 35 IAC 703.281 (a)(2), a notice of this modification shall be sent to all persons on the facility mailing list, maintained by the Illinois EPA in accordance with 35 IAC 705.163(a)(4), and the appropriate units of state and local government as specified in 35 IAC 705.163(a)(5). For a Class 1* modification, the notice must be made within 90 days after the Illinois EPA approves the request.

This action shall constitute the Illinois EPA's final action on the subject submittal. The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Illinois Environmental Protection Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a

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595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

period of time not to exceed 90 days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

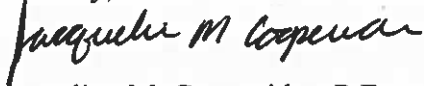
For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
312/814-3620

Work required by this letter, this submittal or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

For general questions regarding this Permit, please contact Kevin Lesko at 217/524-3271. For questions regarding solid waste groundwater issues, please contact Ed Wagner at 217/524-8964. For questions regarding this letter and all other hazardous waste groundwater issues, please contact Shawntay Dial at 217/558-0177.

Sincerely,



Jacqueline M. Cooperider, P.E.
Permit Section Manager
Bureau of Land

JMC:SDD:1970450002-RCRA-B141RM169-Approval.docx

SDD JLR KJ TWH
Attachments: (1) Attachment A – Revisions to the Permit
(2) RCRA Post-Closure Permit

EXHIBIT B



Electronic Filing: Received, Clerk's Office 03/26/2026
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
JB PRITZKER, GOVERNOR JAMES JENNINGS, INTERIM DIRECTOR

217/524-3301

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 29 2024

9589 0710 5270 0389 7096 90

Waste Management of Illinois, Inc.
Attn: Ian Johnson, P.E.
21233 West Laraway Road
Joliet, Illinois 60436-9525

Waste Management of Illinois, Inc.
Attn: James Wilson
700 East Butterfield Road Suite 400
Lombard, Illinois 60148-5671

Re: 1970450002 – Will County
Laraway Recycling and Disposal Facility
ILD074411745
Log Nos. B-141R-M-167, B-141R-M-174, B-141R-M-178, and B-141R-M-181
RCRA Permit File – 24A
Permit Approval

Dear Mr. Johnson and Mr. Wilson:

This letter is in response to the following listed documents submitted by Mr. Ian Johnson, P.E., of Waste Management of Illinois, Inc. on behalf of Laraway Recycling and Disposal Facility (Laraway). In accordance with Title 35 Illinois Administrative Code (35 IAC) Part 703, the subject documents were submitted and reviewed as Class 1* permit modification requests and addressed the revision to the financial assurance cost estimate and the commissioning of municipal solid waste disposal cells Phase 9C / 10B.

Document	Dated	Received
	<u>Log No. B-141R-M-167</u>	
Original Application	May 9, 2022	May 11, 2022
Additional Information	May 31, 2023	June 2, 2023
	<u>Log No. B-141R-M-174</u>	
Original Application	May 12, 2023	May 18, 2023
Additional Information	July 26, 2023	July 28, 2023

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9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000

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2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

Document	Dated	Received
	<u>Log No. B-141R-M-178</u>	
Original Application	January 22, 2024	January 23, 2024
Additional Information	February 8, 2024	February 13, 2024
	<u>Log No. B-141R-M-181</u>	
Original Application	May 8, 2024	May 10, 2024
Additional Information	May 31, 2024	June 5, 2024
	June 17, 2024	June 20, 2024
	June 24, 2024	June 26, 2024
	July 8, 2024	July 10, 2024

The subject permit modification requests included updated post-closure cost estimates and minor revisions to Laraway's current RCRA Post-Closure Permit. The Illinois EPA has reviewed the information and hereby approves the subject submittals as a modification to the approved RCRA Permit (Permit) with the following conditions and modifications:

1. The Illinois EPA has evaluated the requirements for post-closure care, cost estimates, and financial assurance for Areas 1 and 2, the hazardous waste management unit(s), under 35 IAC Part 724. This evaluation has taken into consideration the financial risk to the Illinois EPA and citizens of Illinois, if the Illinois EPA would have to unexpectedly assume operation of the post-closure care at the facility. Such evaluation was performed pursuant to 35 IAC 703.241.
2. The Illinois EPA has determined that a rolling thirty (30)-year post-closure care cost estimate must be maintained by the facility, as required by 35 IAC 724.217(a) (1) and 35 IAC 703.282. This determination was also based on the Illinois EPA's review of: (1) the RCRA Post-Closure requirements; (2) requirements of 35 IAC 724.131, 724 Subpart G, 724.410, and 724 Subpart H; the information contained in the subject submittals. If any evidence shows that the estimated cost should be higher than the rolling 30-year cost estimate, then it should be adjusted to a higher number of years.
3. The proposed annual costs and one-time cost for post-closure care of Areas 1 and 2 in the updated cost estimate can be approved by the Illinois EPA. However, based on Conditions 1 and 2 above, the total post-closure care cost estimate for Areas 1 and 2 cannot be approved by the Illinois EPA. The Illinois EPA's evaluation of the requirements for post-closure care cost and financial assurance under 35 IAC Part 724 estimates as provided in Conditions 1 and 2 above has determined the total post-closure care estimate must reflect 30 years of post-closure care as required by 35 IAC 724.217.

A revised Permit is attached to this letter. Attachment A to this letter contains a summary of the changes made to the Permit. The information in the subject submittal has been incorporated into Laraway's approved permit application. Operations at Laraway must be in accordance with the revised Permit. Pursuant to 35 IAC 703.281 (a)(2), a notice of this modification shall be sent to all persons on the facility mailing list, maintained by the Illinois EPA in accordance with 35 IAC 705.163(a)(4), and the appropriate units of state and local government as specified in 35 IAC 705.163(a)(5). For a Class 1* modification, the notice must be made within ninety (90) days after the Illinois EPA approves the request.

This action shall constitute the Illinois EPA's final action on the subject submittal. The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Illinois Environmental Protection Act by filing a petition for a hearing within thirty-five (35) days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782 5544

For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601-3233
312/814 3620

Work required by this letter, this submittal, or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

1970450002 – Laraway Recycling and Disposal Facility

B-141R-M-167, 174, 178, and 181

Page 4

For general questions regarding this Permit, please contact John Roop, P.E., by email at john.roop@illinois.gov or by phone at 217/262-3071. For question regarding corrective action issues, please contact William Sinnott II by email at bill.sinnott@illinois.gov or by phone at 217/524-3310. For questions regarding solid waste groundwater issues, please contact Ed Wagner by email at ed.wagner@illinois.gov or by phone at 217/524-8964. For questions regarding hazardous waste groundwater issues, please contact Shawntay Dial by email at shawntay.dial@illinois.gov or by phone at 217/558-0177.

Sincerely,

Handwritten signature of Jacqueline M. Cooperider in black ink, followed by the text "(for JMC)" in a similar handwritten style.

Jacqueline M. Cooperider, P.E.
Permit Section Manager
Bureau of Land

^{JMC}
JMC:jir/1970450002-RCRA-B141RM167-B141RM174-B141RM178-B141RM181-Approval.docx

^{JDR} ^{TNH} ^{JCM}
Attachments: (1) Attachment A – Revisions to the Permit
(2) RCRA Post-Closure Permit

Attachment D: Cost Estimates

The following values must be used when establishing financial assurance in accordance with this Permit, applicable rules, and regulations. The cost estimates for closure, post-closure care, and calculations for the amount of financial assurance required for this facility are shown in Table I-2, Table 10-1, Table 10-2, Table 11-2, Table 13-1, and Table 13-2 of Document D.127 (expressed in 2024 dollars) identified in Attachment F of this Permit.

I.	HWMUs Post-Closure Care (In accordance with Condition I.F.1) Hazardous waste disposal Area 1 (35.95 Acres) and Area 2 (8.17 Acres). Post-Closure Care is to be provided until at least September 10, 2022.	
	A. HWMUs Post-Closure Care (from Table I-2)	\$16,456,185
II.	Non-Hazardous Waste Landfill (In accordance with Condition III.K.6):	
	B. MSWLF Closure (from Table 13-1)	\$9,524,326
	C. <u>MSWLF Post-Closure Care (from Table 13-2)</u>	<u>\$4,709,258</u>
	D. Non-Hazardous Sub-Total	\$14,233,584
III.	South Stack Closure, Post-Closure Care, and Corrective Action Activities (In accordance with Condition V.K.1):	
	E. South Stack Closure (from Table 10-1)	\$6,886,012
	F. South Stack Post-Closure Care (from Table 11-2)	\$5,553,746
	G. <u>Corrective Action (from Table 10-2)</u>	<u>\$7,444,745</u>
	H. South Stack Sub-Total	\$19,884,503
IV.	Summary of Costs	
	I. HWMUs Post-Closure Care	\$16,456,185
	J. Non-Hazardous Sub-Total	\$14,233,584
	K. <u>South Stack Sub-Total</u>	<u>\$19,884,503</u>
	L. Grand Total	\$50,574,272

Note:

Table 11-2 includes North Stack Ground Water Sampling and Monitoring.
This table also contains cost estimate for post-closure care of the South Stack.

EXHIBIT C



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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JB PRITZKER, GOVERNOR

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217/524-3301

CERTIFIED MAIL
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JUL 30 2024

9589 0710 5270 0389 7097 06

Waste Management of Illinois, Inc.
Attn: Ian Johnson
21233 West Laraway Road
Joliet, Illinois 60436-9525

Waste Management of Illinois, Inc.
Attn: James Wilson
700 East Butterfield Road Suite 400
Lombard, Illinois 60148-5671

Re: 1970450002 – Will County
Laraway Recycling and Disposal Facility
USEPA ILD074411745
Log No. B-141R2
RCRA Permit File – 24D
Permit Correspondence

Dear Mr. Johnson and Mr. James Wilson:

The purpose of this letter is to inform Waste Management of Illinois, Inc. (WMI) of the Illinois EPA's post-closure care evaluation and determination for a closed hazardous waste management unit, Areas 1 and 2, at the above-referenced Laraway Recycling and Disposal Facility (Laraway).

Laraway has been conducting post-closure care activities at Areas 1 and 2 since September 10, 1992, the date Illinois EPA accepted certification of closure, under the requirements of the facility's RCRA Post-Closure Permit (Log Nos. B-141 and B-141R).

The Illinois EPA has conducted a review and evaluation of the post-closure status and financial assurance liability for Areas 1 and 2 to determine whether the environmental conditions and associated regulatory requirements identified at this site meet the standards of the Illinois Environmental Protection Act (Act), Title 35 Illinois Administrative Code (35 IAC) Subtitle G, Subtitle C of the Resource Conservation and Recovery Act (RCRA), and the USEPA's "Guidelines for Evaluating the Post-Closure Care Period for Hazardous Waste Disposal Facilities under Subtitle C of RCRA", dated December 15, 2016 (2016 USEPA Guidance). In addition, USEPA's guidance "Implementing Climate Resilience in Hazardous Waste Permitting Under the Resource Conservation and Recovery Act (RCRA)", dated June 5, 2024 (June 5, 2024 USEPA Guidance) is also referenced in this letter. A copy of the 2016 USEPA Guidance and June 5, 2024 USEPA Guidance are attached to this letter.

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4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

1. Post-Closure Care Period Evaluation

Condition I.C.2 of the facility's current RCRA Post-Closure Permit states, post-closure care of the Areas 1 and 2 must be provided for at least thirty (30) years, until at least September 10, 2022. The Illinois EPA has evaluated the conditions of the site, as identified in this letter, and determined that it is necessary to continue post-closure care of Areas 1 and 2 beyond September 10, 2022, for at least thirty (30) years in accordance with 35 IAC 703.282. Additionally, the facility must modify the current RCRA Post-Closure Plan in order to address current and future environmental concerns identified in this letter.

The Illinois EPA's determination to require Laraway to extend post-closure care for Areas 1 and 2 is based on the following:

- a. **Leachate:** The ongoing generation of leachate from Areas 1 and 2 requires continued leachate collection and management under post-closure care in accordance with 35 IAC 724.410(b)(2). According to Laraway's annual leachate report for 2023, reported volumes of leachate generated from the Areas 1 and 2, were 824,265 gallons in 2022 and 1,023,250 gallons in 2023.

According to the 2016 USEPA Guidance, monitoring for leachate generation serves as the most effective way of examining the integrity of the waste management unit (e.g., it can suggest a cover or liner failure when leachate is detected late in the post-closure care period).

- b. **Nature of waste in the landfill:** The wastes contained in Areas 1 and 2, approximately 55 acres in size, are considered RCRA hazardous wastes. Area 1 accepted a mixture of municipal solid waste and industrial bulk waste, some of which was hazardous waste. Area 2 accepted containers of waste.

Since hazardous wastes remain in place, Areas 1 and 2 are susceptible to long-term risks and therefore requires continued maintenance and management under post-closure care.

- c. **Unit Type/Design:** The existing final cover system design for Areas 1 and 2, from top to bottom is: 1) a 28-inch thick final cover protective layer to support vegetation (the top 6 inches (minimum) of which is topsoil); 2) a 12-oz/sy non-woven geotextile; 3) a geonet drainage layer; 4) a 40-mil high density polyethylene (HDPE) geomembrane; and 5) a 24-inch compacted clay layer ($K = 1.00 \times 10^{-7}$ cm/s).

The existing leachate collection system was installed as a retrofit system to Areas 1 and 2. The Areas 1 and 2 landfills were not designed to meet the requirements of 35 IAC 724.401 as confirmed in the facility's RCRA Permit renewal application, dated February 27, 2020. 35 IAC 724.410 requires minimum requirements which must be met during the post-closure care period to provide long-term minimization of migration of liquid through the cover system and minimization of leachate. As noted in the 2016 USEPA Guidance, a viable cover is the most important mechanisms in preventing leachate generation and, ultimately, a release of contaminants to the environment. Maintenance and monitoring of the cover system must continue to preserve its integrity. As the subject units do not meet the minimum design standards of a hazardous waste landfill, a continued long-term monitoring and maintenance of Areas 1 and 2 are necessary.

- d. Landfill Gas: Area 1 is equipped with a Gas Collection and Control System (GCCS). After nearly thirty-two (32) years of post-closure care, landfill gas continues to be generated, and therefore, a landfill gas monitoring/management program must continue at Area 1. The gas collection system must remain operational and be maintained.
- e. Long-Term Care (also known as Long-Term Stewardship): The establishment and maintenance of physical and legal land use controls at Areas 1 and 2 are necessary to prevent exposure to the hazardous waste and hazardous constituents abandoned within the landfill. The Illinois EPA has determined that long-term monitoring, including maintenance of the cover system and groundwater monitoring system, control of any liquids (leachate), and landfill gas, and restrictions of future land uses must be established at the site. These measures must continue to minimize future exposure and potential hazardous waste releases to the environment in accordance with 35 IAC 724.410(b)(1), Section 12(a), 21(n), and 39(g) of the Act and the 2016 USEPA Guidance.
- f. Climate Change Consideration: Long-term care of the hazardous waste management unit mentioned above must also consider impacts from climate change. The June 5, 2024 USEPA Guidance requires the RCRA authorized states to incorporate climate change considerations into their RCRA permitting program. The June 5, 2024 USEPA Guidance requires that, "RCRA permits will include the conditions that the permitting Authority determines are necessary to ensure that the facility operation will be compliant and protective in the face of such impacts." Hazardous wastes remain at Areas 1 and 2; therefore, vulnerability screening and assessment for any potential climate change impacts must be incorporated into the long-term care for Areas 1 and 2.

2. Financial Assurance Requirements Evaluation

Historically, during the post-closure care period, the Illinois EPA has accepted the facility's proposal to reduce financial assurance liability based on the number of years of post-closure care that had been completed by the facility. However, this reduction did not take into consideration the established long-term environmental threats at facilities with hazardous waste remaining on site. The financial risk to the Illinois EPA and citizens of Illinois, should the Illinois EPA have to unexpectedly assume operation of the post-closure care of the facility, had not been appropriately accounted for. The Illinois EPA has evaluated the risk to the state and citizens of Illinois, based on current climate change guidance, USEPA post-closure care guidance, and in accordance with requirements for post-closure care, cost estimates, and financial assurance for the hazardous waste management unit(s) under 35 IAC Part 724, and has determined that a rolling 30-year post-closure care cost estimate must be maintained by the facility, as required by 35 IAC 724.217(a) (1) and 35 IAC 703.282. If any evidence shows that the estimated cost should be higher than the rolling 30-year cost estimate, then it should be adjusted to a higher number of years.

3. Pending RCRA Renewal Permit Application

A RCRA renewal permit application was received by the Illinois EPA on February 28, 2020, followed by two addendums received on August 21, 2023, and February 8, 2024. As the facility's RCRA permit is in the process of being renewed, the facility must submit an addendum to the renewal permit application to revise the post-closure plan for the Area 1 and 2 units to extend the post-closure care and provide rolling 30-year financial assurance for the post-closure care of the Area 1 and 2 units within sixty (60) days of the date of this letter.

If Item 3 above is not addressed in a timely manner, the Illinois EPA may: (1) issue a renewal permit with conditions to reflect the extension of the post-closure care period; or (2) deny the renewal of the RCRA permit for the facility.

This action shall constitute the Illinois EPA's final action for the requirements described above. The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Act by filing a petition for a hearing within thirty-five (35) days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed ninety (90) days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

1970450002 – Laraway Recycling and Disposal Facility

B-141R2-Corr

Page 5

For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk
State of Illinois Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601-3233
312/814-3620

Work required by this letter or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.


If you have any questions concerning this matter, please contact John Roop, P.E., by email at john.roop@illinois.gov or by phone at 217/524-3071.

Sincerely,

 (for JMC)

Jacqueline M. Cooperider, P.E.
Permit Section Manager
Bureau of Land

JMC:jjr/1970450002-RCRA-PCCFA-Notice.docx


Attachments: USEPA Guidelines for Evaluating the Post-Closure Care Period for Hazardous Waste Disposal facilities under Subtitle C of RCRA

USEPA June 5, 2024, Guidance: Implementing Climate Resilience in Hazardous Waste Permitting Under the Resource Conservation and Recovery Act (RCRA)

cc: Norberto Gonzalez, Emily Keener, U.S. EPA – Region V