

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 to Compel Production of Documents and Memorandum of Law in Support of Waste Management of Illinois, Inc.'s Motion to Compel Production of Documents, copies of which are herewith served upon you.

Dated: August 20, 2026

Waste Management of Illinois, Inc.

/s/ Kristen L. Gale
One of its Attorneys

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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 to Compel Production of Documents and Memorandum of Law in Support of Waste Management of Illinois, Inc.'s Motion to Compel Production of Documents was electronically filed on August 20, 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 August 20, 2026 to the parties on the service list.

Dated: August 20, 2026

Waste Management of Illinois, Inc.

/s/ Kristen L. Gale
One of its Attorneys

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**WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS**

Waste Management of Illinois, Inc. ("WMIL") requests that the Hearing Officer enter an order compelling the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") to produce unredacted copies of the Agency's notes from its meetings with the U.S. Environmental Protection Agency ("USEPA") Post-Closure Care Working Group. In support of its Motion, WMIL attaches its Memorandum in Support and states as follows:

1. On December 4, 2024, WMIL filed this appeal of the Agency's July 29, 2024 permit with conditions ("July 29th Permit Modification") and the related July 30, 2024, final decision ("July 30th Final Decision") for the Laraway Recycling and Disposal Facility ("Laraway RDF") (collectively "Final Determinations").
2. On March 4, 2025, the Agency filed and served the record for this proceeding ("Record"). The Record included "Review Notes" that Illinois EPA prepared for the "Laraway

RDF.” See R000942, R000961-962, attached as Exh. A.¹ The Review Notes included descriptions of Illinois’ participation in the USEPA Post-Closure Care Implementation Group as part of its consideration when making its Final Determinations. In particular, the Review Notes state that Illinois EPA understood that “it was general concurrence amount USEPA and States representatives” that if waste remains in place, post-closure care must continue. *Id.*, at R000961. Further, the Review Notes show that Illinois EPA made inquiries to two representatives in Wisconsin and Florida on how the “states implemented extending post-closure care ta (*sic*) RCRA sites” and summarized the responses. *Id.* at R000961-962.

3. On May 27, 2025, WMIL served its First Set of Requests for Document Production to Illinois EPA. Exh. B. In Document Request #3, WMIL requested notes, memos, emails, minutes, agendas, or documents of the bi-weekly meetings of the Post-Closure Care Implementation Group described by the Agency at Record Page R000961. *Id.* at p. 2.

4. In response to WMIL’s Document Request #3, Illinois EPA stated that the remarks made by representatives of other agencies were not relevant, and extensively redacted the Agency’s meeting notes of the Post-Closure Care Implementation Working Group, including redacting the identity of other States that were part of the discussions, and redacting the topics discussed. Exh. C at p. 2-3 (Illinois EPA’s Amended Reponses), and Exh. D (IEPA 000025-000054, IEPA 000179-000183).

5. On August 6, 2025, the parties participated in a conference regarding the discovery responses. During the conference, Illinois EPA took the position that the notes were redacted because it believed the information was not relevant, relying on Rule 201(c)(3). On August 6, 2025, WMIL followed up the conference with an email disputing that the redactions based upon

¹ A List of Exhibits is provided below at page 4.

relevancy were proper and requesting the unredacted meeting notes. Exh. E. On October 8, 2025, WMIL reiterated its request for the documents further stating that the Agency's reliance on Rule 201(c)(3) was improper because WMIL's request was not overly burdensome — it seeks only about 16 documents, each about two pages in length— and requested further explanation by Illinois EPA. Exh. F.

6. Illinois EPA responded on December 23, 2025, re-stating that the information was redacted because Illinois EPA believed the redactions were not relevant. Exh. G. WMIL and Illinois EPA conferred again on February 5, 2026, where the Agency again stated that redactions to the USEPA Group meeting notes were based on relevance. WMIL maintains that these redactions are improper and files this Motion to Compel the Agency's production of unredacted copies of these meeting notes.

7. The Board's Procedural Rules allow discovery of 'All relevant information and information calculated to lead to relevant information...' 35 Ill. Admin. Code 101.616. Here, the Agency's meeting notes of the Post-Closure Working Group are relevant because they contain information that the Agency considered as part of its Final Decisions. Indeed, given that the Agency relied upon information from two states as part of its decision, there is little doubt that information from other states is relevant. Further, the unredacted meeting notes are likely to lead to additional relevant information including identifying States that do not agree with Illinois EPA's position, which is information that the Agency did or should have relied upon and is required to be in the Record. *Ameren Energy Resources Generating Co. v. Illinois EPA*, PCB 14-41, 2014 Ill. ENV LEXIS 100 at *23 (Mar. 20, 2014) (Board denied request to strike document from Record despite claim that the Agency did not rely on it, because Record must include "all documents on which the Agency relied or reasonably should have relied.") Similarly, the unredacted meeting

notes are likely to lead to discovery of relevant information because the subjects discussed at the meetings included the same subjects of this appeal — extending post-closure care and financial assurance beyond the regulatory 30-year period.

8. The Board and its Hearing Officers have consistently required the Agency to disclose information in permit appeals despite the Agency's claims that the information was irrelevant. See *KCBX Terminals Co. v. Illinois EPA*, PCB 14-110, p. 1 (April 8, 2014) (B. Halloran) (Board upheld Hearing Officer's decision requiring Agency to produce meeting notes that the Agency asserted were not relevant because the notes discussed the petitioner's request).

9. Because the redacted information is relevant and/or likely to lead to relevant information, the Agency should be compelled to provide unredacted meeting notes and any other responsive communications with other states' regulators.

WHEREFORE, Waste Management of Illinois, Inc. respectfully requests that the Hearing Officer enter an order requiring Illinois EPA to provide a complete response to WMIL's Document Request #3, including all its communications with other states, and unredacted notes of those meetings.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

Petitioner,

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

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List of Exhibits

Exhibit A: IEPA's Record paged R000961 to 962

Exhibit B: WMIL's First Set of Requests for Production of Documents

Exhibit C: IEPA's Amended Response to WMIL's Request for Production of Documents

Exhibit D: IEPA's Document Response to WMIL's Request #3

Exhibit E: WMIL Email of August 6, 2025

Exhibit F: WMIL Email of October 8, 2025

Exhibit G: Illinois EPA's Email of December 23, 2025

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MEMORANDUM OF LAW IN SUPPORT OF WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”) improperly redacted relevant information concerning non-privileged meetings of the Post-Closure Care Implementation Working Group organized by U.S. Environmental Protection Agency (“USEPA Group”). Illinois EPA relied upon information from those meetings as part of its post-closure care determination for the Laraway RDF. The Hearing Officer should order Illinois EPA to provide a complete response to WMIL’s Document Request #3 by providing the unredacted notes of the USEPA Group meetings.

BACKGROUND

On December 4, 2024, WMIL filed this appeal of the Agency’s July 29, 2024, permit with conditions (“July 29th Permit Modification”) and the related July 30, 2024, final decision (“July 30th Final Decision”) (collectively “Final Determinations”). On March 4, 2025, the Agency filed and served the record relating to its Final Determinations (“Record”). The Record shows that as part of its Final Determinations to extend post-closure care permit terms and financial assurance

beyond 30 years, Illinois EPA considered and relied on communications with other States, Illinois EPA's bi-weekly meetings with the USEPA Post-Closure Care Implementation Group ("USEPA Group"). Illinois EPA referred to such communications in its Review Notes for the Laraway RDF as "Decisions Regarding Extending Post-Closure Care at other IL RCRA Facilities and Communications from Other States." *Id.* In particular, Illinois EPA states as part of its review that "it was general concurrence amount USEPA and States representatives" that if waste remains in place, post-closure care must continue. *Id.*, at R000961. Further, the Review Notes show that Illinois EPA consulted with representatives in Wisconsin and Florida on how the "states implemented extending post-closure care ta (sic) RCRA sites" and summarized the representatives' responses in the notes. *Id.* at R000961-962.

On May 27, 2025, WMIL served its First Set of Requests for Document Production to Illinois EPA. In Document Request #3, WMIL requested notes, memos, emails, minutes, agendas, or documents of the bi-weekly meetings of the USEPA Group described in Illinois EPA's Review Notes contained in the Record. *See* Exh. B. In response, Illinois EPA provided heavily redacted meeting notes of the USEPA Group meetings, including redactions of the names of participants and topics discussed. *See* Exh. C and Exh. D, at IEPA000025 to 054 and IEPA000179 to 183. The redacted notes show that Illinois EPA discussed the various sites it relied on to make its Final Determinations at Laraway RDF with the USEPA Group. For example, on February 13, 2023, the agenda was the RCH Newco site, which Illinois EPA specifically relied upon on page 20 of its Review Notes included in the Record. *See* Exh. A at R000961 and Exh. D at IEPA 000050-000051.

IEPA 000050

**Post-Closure Care Implementation Workgroup Meeting
February 13, 2023**

USEPA HQ: Lilybeth Colon; Denise Housley, Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7), Lauren Stanfield (R7), Chris Baker (R9)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Notes by: Rob Watson

Agenda for today:

Summary from last mtg. RCH Newco IEPA summary of notice to extend PC care, and Facility comments in response.

IEPA 000050. Illinois EPA redacted approximately half of the discussion, including over half of the discussion regarding financial assurance:

IEPA 000051

Topics Discussed Today

1. PC Financial Assurance

- For a facility that is in post-closure, does your State require they maintain 30 years of financial assurance or something less than 30 years? If less than 30 years, do you have a minimum?
- For a facility that has completed 30 years of post-closure care, but has extended post-closure care due to groundwater contamination, or still pumping leachate, does your State require they maintain 30 years of financial assurance or something else?
- USEPA HQ: Housley D.: States that she works with require rolling 30-year FA.
- USEPA HQ: Pease M.: OSC most states use rolling 30-yr average for FA. Need detailed annual cost estimate. Cost estimates are often very underestimated.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- 264.144(c): adjusting FA during "Active Life" of facility.

2.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

IEPA 000051.

Similarly, the notes show that the Illinois EPA discussed alternative options for facilities in post-closure care, but the discussion of the alternatives is redacted:

- IEPA 000043
- d. **Financial Assurance**
- Updates to the cost estimate
 - Adjustments for inflation
 - IL – min of 10 years of FA required as permit condition. Even if site has been in PC for 25 years and is not leaking or pumping leachate.
 - [REDACTED]
- e. **Alternative Authorities**
- What would the allowance of Alternate Authorities give us? Pros & Cons?
 - Would it make sense to allow them under specific circumstances?
 - [REDACTED]
 - [REDACTED]
 - IL – (TNH) Agree; permit preferred. If something changes at site, need to reopen CO to revise it; if permit, just do permit mod.
 - IL – (TNH) example of site that is not leaking and wants a CO instead of a permit after 30 years.
 - IL – Request USEPA develop guidance on what minimum requirements of what need to be specified in an alternative enforceable document. USEPA – Could do that BUT – if that guidance exists, then sites will conclude that an alt enf doc is ok to use. Is that the message we want to send.
 - WRW – key thing to remember is that we are trying to develop a regulatory framework for landfills that will adequately cover situations like a release at some future point in time. Its very hard to guess what will occur in 40-50-100 years. Yet, that is what we are trying to accomplish.

On August 6, 2025, the parties participated in a conference regarding the discovery responses. During the conference, Illinois EPA took the position that the notes were redacted because it believed the information was not relevant, relying on Rule 201(c)(3). Following the conference, WMIL confirmed in an email its dispute that the redactions based on relevancy were proper. Exh. E. On October 8, 2025, WMIL reiterated its dispute that the redactions based upon relevancy were proper and again requested the unredacted meeting notes. Exh. F. WMIL further stated that the Agency's reliance on Rule 201(c)(3) was improper because WMIL's request was not overly burdensome because WMIL seeks only about 16 documents that are two pages each and requested further explanation by Illinois EPA. See Exh. F.

Illinois EPA responded on December 23, 2025, re-stating that the information was redacted because Illinois EPA believed the redactions were not relevant. Exh. G. WMIL and Illinois EPA conferred again on February 5, 2026, where the Agency again stated that redactions to the USEPA Group meeting notes were based on relevance. WMIL maintains that these redactions are improper and files this Motion to Compel the Agency's production of unredacted copies of these meeting notes.

ARGUMENT

Illinois EPA Improperly Redacted Information

Illinois EPA improperly redacted information it considered not relevant. Indeed, there is no authority under the Board rules or Board decisions that allows a party to redact information from discovery documents that it considers not relevant. Under the Board rules, WMIL is entitled to all information that is relevant or that may "lead to relevant information." 35 Ill. Admin. Code 101.616. In a permit appeal, the Board has held that it is "proper to inquire, and discovery should be allowed" to ensure that the record is complete and contains all of the information that was before the Agency when it came to its final decision. *Owens-Illinois, Inc. v. Illinois EPA*, PCB 77-288, p.1 (Feb. 2, 1978). The allowance of broad discovery is in support of the Board's requirement that the record must include "all documents on which the Agency relied or reasonably should have relied." *Ameren Energy Resources Generating Co. v. Illinois EPA*, PCB 14-41, 2014 Ill. ENV LEXIS 100 at *23 (Mar. 20, 2014).

Moreover, the Board and its Hearing Officers have consistently required the Agency to disclose information in permit appeals even where the Agency deemed the information to be irrelevant. In *KCBX Terminals Co. v. Illinois EPA*, the petitioner requested Agency employees' notes taken during meetings, telephone calls, or discussions where the petitioner's request for a

revision of its permit or the Agency decision was discussed. *KCBX Terminals Co. v. Illinois EPA*, PCB 14-110, p. 1 (April 8, 2014) (B. Halloran). Illinois EPA withheld the documents by claiming the meeting notes were not relevant and would not lead to relevant information because the notes were not the final determinations. *Id.* at p. 2. The Hearing Officer rejected the Agency's claim, finding that the meeting notes at issue were clearly relevant because the notes discussed the petitioner's request for a revision and could be submitted for inclusion in the record. *Id.* at pp. 4-5. The Board upheld the Hearing Officer's decision and directed the Agency to include the withheld meeting notes in the record. PCB 14-110, p. 26 (April 17, 2014).

Here, like *KCBX Terminals*, the Hearing Officer should order Illinois EPA to provide the unredacted meeting notes because they are clearly relevant or likely to lead to relevant information. Clearly, the Agency was weighing other State's decisions on post-closure care, and rendering the other State's information relevant. Indeed, Illinois EPA's Review Notes show that Illinois EPA came to its Final Determinations by considering other State's conclusions regarding post-closure care and financial assurance. Exh. A, R000961-962. Illinois EPA specifically conducted outreach to two states, Wisconsin and Florida, to "inquire how these states implemented extending of post-closure care" at RCRA sites and summarized those States' responses. *Id.*

Further, in addition to the excerpts copied above, the notes for the May 9, 2022 meeting state that the parties asked, "[u]nder which circumstances can PC [post-closure] be terminated," and a portion of the answer is redacted. Exh. D at IEPA000032. Similarly, on June 6, 2022 the parties discussed under which circumstances did facilities seek to get out of post-closure care, and about half of the answers are redacted. Exh. D at IEPA000034. Given that this appeal is regarding the Agency's unilateral decision to extend the post-closure care period for the Laraway RDF, the question of when post-closure may be terminated is relevant. Further on February 13, 2023, the

sole focus of the meeting was the Agency's request for state input on post-closure financial assurance and over half of the topics discussed were redacted. Exh. D at IEPA000050-51. Because the basis of WMIL's appeal is the Agency's decision to extend 30 years of financial assurance requirements "on a rolling basis," the opinions solicited by the Agency from the other states regarding financial assurance are highly relevant.

Indeed, the redacted information appears to identify other states that disagree with the Agency's interpretation of the post-closure requirements and their basis, which would likely be information that the Agency should have relied upon and is required to be in the Record. *Ameren Energy Resources Generating Co. v. Illinois EPA*, PCB 14-41, 2014 Ill. ENV LEXIS 100 at *23 (Mar. 20, 2014) (Board denied request to strike document from Record despite claim that the Agency did not rely on it ,because Record must include "all documents on which the Agency relied or reasonably should have relied.") At the very least, the unredacted meeting notes are likely to lead to discovery of relevant information because the subjects discussed at the meetings included the same subjects of this appeal — extending post-closure care and financial assurance beyond the regulatory 30-year period.

CONCLUSION

Illinois EPA's redaction of the meeting notes based upon a claim of lack of relevancy is improper and without authority. Rather, the information and opinions from any source that Illinois EPA considered in making its Final Determinations are highly relevant. Like the Hearing Officer's decision in *KCBX Terminals*, the Hearing Officer should order the Agency to provide a complete

response to WMIL's Document Request #3, including all its communications with other states, and unredacted notes of those meetings.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

Petitioner,

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

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EXHIBIT A

REVIEW NOTE CHECKLIST**General Information**

1970450002 – Will County
 Laraway Recycling and Disposal Facility
 ILD074411745
 Log #: B-141R-M-181

Start of Review (Date)	5/10/24 7/29/24 JRR	
Project Manager	John Roop, P.E. (JJR)	
Groundwater Unit Reviewer	Shawntay Dial (SDD) for RCRA / Ed Wagner (ERW) for SW	
Corr. Action Reviewer	Bill Sinnott (WTS)	
Brief Description of Project	2022 Cost Estimate, 2023 Cost Estimate, and 2024 Cost Estimate	
Site Name/Location	Laraway Recycling and Disposal Facility 21233 West Laraway Road Joliet, IL 60436-9525	
Facility Contact ☒ - Operator ☒ - Owner	Ian Johnson 21233 West Laraway Road Joliet, IL 60436-9525	Phone #: (815)-280-6301 Email: ijohnson@wm.com
Facility Contact ☒ - Operator ☒ - Owner	James Wilson 21233 West Laraway Road Joliet, IL 60436-9525	Phone #: (815)-280-6301 Email: jwilson@wm.com
Consultant	NA	Phone #: Email:
Siting (Sec. 3.330 of Act) Cert. of Siting (LPC-PA8)	☐ -Yes ☐ -No ☒ -NA	
Environmental Justice Area  Chrome SWAP (See Procedure I.28) <u>EJ Database (EJ DB)</u>	<p>a. EJ Area: ☐-Yes ☒-No ☐-N/A¹ (only applies to permit applications). Should be marked "Yes" if either SWAP or EJ DB evaluation indicates EJ concerns.</p> <p>b. EJ Evaluation:</p> <p>i. SWAP Results: ☒-Not located in EJ Area ☐-Blue (1) Minority ☐-Yellow (2) Low Income ☐-Red (3) Minority & Low Inc.</p> <p>ii. EJ DB Results: ☒-(0) Not EJ Area ☐-(1) Minority ☐-(2) Low Income ☐-(3) Minority & Low Income ☐-(99) Status Unknown</p>	

¹ For Environmental Justice Area reviews, the term "permit applications" means permit applications for various types of waste management facilities, including RCRA corrective actions and (CCDD) fill operations. It does not include uncontaminated soil fill operations (USFO), beneficial use determinations (BUD's) or general correspondence (PS Corr). See Footnote 1 from Procedure I.28.

Review Notes
Laraway RDF
JJR

6. Illinois EPA's Decisions Regarding Extending Post-Closure Care at other IL RCRA Facilities and Communications from Other States

The Illinois EPA recently has made the following decisions regarding post-closure care beyond the initial 30-years for the following permitted and interim status facilities:

- On July 1, 2022, Illinois EPA issued its proposed decision to deny the request for the completion of post-closure care and extend the post-closure care period beyond the initial 30 years at the City of North Chicago site (0971250007). After a public notice and the comment period, the Illinois EPA's final decision to extend the post-closure care period at the City of North Chicago was issued on August 19, 2022.
- On November 15, 2022, Illinois EPA issued its proposed decision to extend the post-closure care period beyond the initial 30 years at the RCH Newco site (1978030005). The final decision to extend the post-closure care period was issued by the Agency on March 13, 2024 (C-68).
- In addition to the extending the post-closure care period, a renewed RCRA Post-Closure Permit was issued for CID site (0310390001) on January 19, 2023. This permit has post-closure requirements in Section I of the permit, which contains the updated requirements in the Post-Closure Section, which were the reflection of the updated template for the post-closure section to require that post-closure care may be extend if necessary to protect human health and the environment and that the environmental covenant (EC) is necessary to be established prior to exiting the permit.
- A draft renewed permit for Greenfield Multistate Trust (Former Tronox) site was issued on March 11, 2024, which included the Agency's decision to extend the post-closure care period beyond the 30-year. The final renewed permit for this site will be finalized and issued soon.
- In addition, the Illinois EPA has proposed to and will extend Post-Closure care at the Greenfield Multistate Trust (formerly Tronox) site in its renewed Permit draft dated 3/11/2024).

When questions were raised regarding the extending of Post-Closure at other States during the USEPA-Lead Post-Closure Care Implementation Group (which met generally on a Bi-Weekly basis in 2022 through April 2023), it was general concurrence among USEPA and States representatives that if the waste remains in place, post-closure care must continue to be implemented. Among those States that have extended the post-closure care beyond 30-years were Wisconsin (which is one of Region 5 States) and Florida. In response to this reviewer's inquiry about how these states implemented extending of post-closure care at RCRA sites, the following responses were received both on 4/23/2023:

Review Notes
Laraway RDF
JJR

- Doug Coenen, P.E., of Wisconsin Department of Natural Resources called initially to discuss on the phone. He indicated that WI Statute requires long-term care (a.k.a Post-Closure Care) to be implemented in perpetuity. He indicated that this is why they do not even need to address extending of post-closure area as if the waste remains in place, post-closure care continues and there is no need to address post-closure care period. However, WI still uses rolling 30-years for financial assurance. He then sent me an email to quote the Statue of WI (289.41(1.m) (c).
- Merline Russell, P.G., of Florida Department of Environmental Protection has indicated they have extended post-closure care in a couple of ways. One is to simply add another 30-years to initial 30-years and requires 60 years of Post-Closure care. In another way, FL requires the facility to have "rolling" 30-years, which means it always have 30 years as required post-closure care period regardless of how many years of post-closure care the facility completed. This rolling 30-year is also reflected in the financial assurance requirements.

7. Climate Change Consideration for RCRA Permitting

On June 5, 2024 the USEPA issued Guidance which requires the authorized states including Illinois to incorporate climate change considerations into RCRA permitting program.

The June 5, 2024, 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."

Currently Hazardous waste remains at Areas 1 and 2, therefore, vulnerability screening and assessment for the any potential climate change impacts must be incorporated into the long-term care for Areas 1 and 2 which will be included in modifications to the RCRA permit going forward.

In the event that the Phase I Landfill no longer has hazardous waste then the climate change considerations may be reevaluated.

Implementation of the climate change considerations is underway with RCRA permits currently being drafted by the Illinois EPA, not just for Laraway RDF.

8. Restoring to Thirty (30) Financial Assurance Value

From Table I-2, \$1,097,079 represent the HWMUs Post-Closure Care cost for two (2) years. In order to bring the financial assurance coverage back to thirty (30) years of coverage, the value would be multiplied by fifteen (15). $\$1,097,079 \text{ per two years} \times 15 \text{ years} = \$16,456,185$. The cost estimate for the HWMUs (Areas 1 and 2) will be modified from WMI's proposed \$1,097,079 to the Illinois EPA's required \$16,456,185. All other proposed cost estimate values will be approved as requested. This required adjustment will result in a new grand total of \$50,574,272.

EXHIBIT B

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	)	
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ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY	)	
	)	
Respondent.	)	

**WASTE MANAGEMENT OF ILLINOIS, INC.'S DOCUMENT REQUESTS
TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

WASTE MANAGEMENT OF ILLINIOS, INC. ("WMIL") submits the following Document Requests to the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") pursuant to the Hearing Officer Order dated May 5, 2025, 35 Ill. Adm. Code 101.616, and Illinois Supreme Court Rule 214.

DEFINITIONS and INSTRUCTIONS

WMIL incorporates the Definitions and Instructions from its Interrogatories as if restated herein.

DOCUMENTS REQUESTED

1. Any documents relied upon, consulted, reviewed, related to, referred to or identified by the Agency in preparing responses to WMIL's Interrogatories.

RESPONSE:

2. Provide any and all notes, memos, emails, or documents of the "Internal discussion" described in the Laraway RDF Notes at R000955.

RESPONSE:

3. Provide any and all notes, memos, emails, minutes, agendas or documents of the Bi-Weekly meetings with USEPA and other States described in the Laraway RDF Notes at R000961.

RESPONSE;

4. Provide all communications or documents related to “this reviewer’s inquiry about how these states implemented extending of post-closure care ta (*sic*) RCRA sites,” described at R000961.

RESPONSE:

5. Provide all notes, memos, or documents related to the communications between Illinois EPA and Wisconsin Department of Natural Resources regarding the extension of post-closure care at RCRA sites, including but not limited any and all notes, memos, emails, or documents related to the communications with Doug Coenen described at R000962.

RESPONSE:

6. Provide all notes, memos, emails, documents or communications between Illinois EPA and Florida Department of Environmental Protection regarding the extension of post-closure care at RCRA sites, including but not limited to any and all communications with Merline Russell described at R000962.

RESPONSE:

7. Provide all memos, documents and communications related to Illinois EPA's statement that it "agrees with (*sic*) above, and the subject permit conditions reflect the issues and concerns addressed in the Position paper within the currently applicable regulations and the guidance." See R00954.

RESPONSE:

8. Provide all memos, documents and communications related to "Illinois EPA's determination that as long as hazardous waste is left in place, the risk of future potential for the contamination continues to exist at the hazardous waste landfill." described on R000953.

RESPONSE:

9. Provide all memos, documents and communications related Illinois EPA's determination that "post-closure care must be extended" in the "Illinois EPA Comment" on page 13 of 23 of the Review Note Checklist for the Laraway Recycling and Disposal Facility and located at R000954.

RESPONSE:

10. Provide all memos, documents and communications related to the Illinois EPA's decision to issue the Final Determinations as Class I* modifications under 35 Ill. Adm. Code 703.280(d)(2)(A).

RESPONSE:

11. Provide any and all checklists for reviews and approvals of the 10-year RCRA renewal application process for Laraway RDF from 2000 to present.

RESPONSE:

12. Provide any and all checklists for reviews of routine RCRA post-closure updates for Laraway RDF from 2000 to present.

RESPONSE:

13. Provide any and all procedures, guidelines, guidances, or otherwise similarly described documents utilized by Illinois EPA for reviews of closure/post-closure updates for RCRA landfills.

RESPONSE:

Dated: May 27, 2025

Respectfully submitted,
WASTE MANAGEMENT OF
ILLINOIS, INC.

By: /s/ Jennifer T. Nijman
One of Its Attorneys

Jennifer T. Nijman
Kristen L. Gale
Andrew Nishioka
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3400
Chicago, IL 60603
(312) 251-5255

EXHIBIT C

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS, INC.,	)	
	)	
Petitioner,	)	
	)	PCB 25-9, 25-10
v.	)	(Permit Appeal – RCRA)
	)	(Consolidated)
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**RESPONDENT’S AMENDED RESPONSE TO
PETITIONER’S FIRST SET OF DOCUMENT REQUESTS**

Now comes Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by KWAME RAOUL, Attorney General of the State of Illinois, and hereby submits its amended responses to Petitioner’s First Set of Document Requests (“Document Requests”), as follows:

RESPONSES TO DOCUMENT REQUESTS

1. *Any documents relied upon, consulted, reviewed, related to, referred to or identified by the Agency in preparing responses to WMIL’s Interrogatories.*

RESPONSE: (JJR) and (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 1 to the extent that Petitioner seeks information subject to the attorney-client privilege and attorney work product doctrine. Specifically, one document responsive to this request includes attorney client privileged communications between Illinois EPA BOL and Illinois EPA Department of Legal Counsel providing legal advice on interpretation of 35 Ill. Adm. Code Part 724 regulations. Such privileged communications have been redacted.

Subject to the foregoing, the following redacted document responsive to Document Request No. 1 has been produced.

- John Roop, P.E. Review Notes (R 000942-000972; IEPA 000001-000023)

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 1 have been produced.

- Title 35 Illinois Administrative Code Subtitle G
- The Illinois Environmental Protection Act

2. *Provide any and all notes, memos, emails, or documents of the "Internal discussion" described in the Laraway RDF Notes at R000955.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged document responsive to Document Request No. 2 has been produced.

- Takako Halteman meeting notes (IEPA 000024)

3. *Provide any and all notes, memos, emails, minutes, agendas or documents of the Bi-Weekly meetings with USEPA and other States described in the Laraway RDF Notes at R000961.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 3 on the grounds that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor proportional to the needs of the case, as required by Illinois Supreme Court Rule 201(c)(3). Specifically, this request is irrelevant to the extent that it seeks remarks made by representatives of agencies other than Illinois EPA or USEPA. Remarks made by

representatives of agencies other than Illinois EPA and USEPA as well as references to their names and contact information have been redacted.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 3 have been or will be produced.

- 03/17/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000025)
 - 03/28/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000026-000027)
 - 04/11/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000028-000029)
 - 04/25/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000030-000031)
 - 05/09/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000032-000033)
 - 06/06/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000034-000035)
 - 08/15/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000036-000037)
 - 09/12/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000038-000039)
 - 09/26/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000040-000041)
 - 10/11/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000042-000043)
 - 11/07/2022 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000044-000045)
 - 01/30/2023 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000046-000048)
 - 02/13/2023 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000049)
 - 02/27/2023 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000050-000051)
 - 03/13/2023 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000052)
 - 04/10/2023 Post-Closure Care Implementation Workgroup Meeting Notes (IEPA 000053-000054)
 - Takako Halteman Post-Closure Care Meeting Notes (IEPA 000179-000183)
4. *Provide all communications or documents related to “this reviewer’s inquiry about how these states implemented extending of post-closure care ta (sic) RCRA sites,” described at R000961.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 4 have been produced.

- Takako Halteman and Douglas Coenen emails (IEPA 000055-000056)
- Takako Halteman and Merlin Russell emails (IEPA 000057-000058)
- Attachment included by Merlin Russell in response to Takako Halteman's email (IEPA 000059-000061)

5. *Provide all notes, memos, or documents related to the communications between Illinois EPA and Wisconsin Department of Natural Resources regarding the extension of post-closure care at RCRA sites, including but not limited any and all notes, memos, emails, or documents related to the communications with Doug Coenen described at R000962.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged document responsive to Document Request No. 5 has been produced.

- Takako Halteman and Douglas Coenen emails (IEPA 000055-000056)

6. *Provide all notes, memos, emails, documents or communications between Illinois EPA and Florida Department of Environmental Protection regarding the extension of post-closure care at RCRA sites, including but not limited to any and all communications with Merline Russell described at R000962.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend

and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 6 have been produced.

- Takako Halteman and Merlin Russell emails (IEPA 000057-000058)
- Attachment included by Merlin Russell in response to Takako Halteman's email (IEPA 000059-000061)

7. *Provide all memos, documents and communications related to Illinois EPA's statement that it "agrees with (sic) above, and the subject permit conditions reflect the issues and concerns addressed in the Position paper within the currently applicable regulations and the guidance." See R00954.*

RESPONSE: (JJR)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 7 to the extent that Petitioner seeks information subject to the attorney-client privilege and attorney work product doctrine. Specifically, the document responsive to this request includes attorney client privileged communications between Illinois EPA BOL and Illinois EPA Department of Legal Counsel providing legal advice on interpretation of 35 Ill. Adm. Code Part 724 regulations. Such privileged communications have been redacted.

Subject to the foregoing, the following redacted document responsive to Document Request No. 7 has been produced.

- John Roop, P.E. Review Notes (R 000942-000972; IEPA 000001-000023)

Moreover, Illinois EPA objects to Document Request No. 7 on the grounds that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor proportional to the needs of the case, as required by Illinois Supreme Court Rule 201(c)(3). Specifically, this request is irrelevant to the extent that it seeks remarks made by representatives of agencies other than Illinois EPA or USEPA. Remarks made by representatives of agencies other than Illinois EPA and USEPA as well as references to their names and contact information have been redacted.

Subject to the foregoing, the following redacted documents responsive to Document Request No. 7 has been or will be produced.

- Rob Watson and Ashby Scott emails and attachment (IEPA 000184-000187)

8. *Provide all memos, documents and communications related to “Illinois EPA’s determination that as long as hazardous waste is left in place, the risk of future potential for the contamination continues to exist at the hazardous waste landfill.” described on R000953.*

RESPONSE: (JJR)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 8 to the extent that Petitioner seeks information subject to the attorney-client privilege and attorney work product doctrine. Specifically, the document responsive to this request includes attorney client privileged communications between Illinois EPA BOL and Illinois EPA Department of Legal Counsel providing legal advice on interpretation of 35 Ill. Adm. Code Part 724 regulations. Such privileged communications have been redacted.

Subject to the foregoing, the following redacted document responsive to Document Request No. 8 has been produced.

- John Roop, P.E. Review Notes (R 000942-000972; IEPA 000001-000023)

9. *Provide all memos, documents and communications related Illinois EPA’s determination that “post-closure care must be extended” in the “Illinois EPA Comment” on page 13 of 23 of the Review Note Checklist for the Laraway Recycling and Disposal Facility and located at R000954.*

RESPONSE: (JJR)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 9 to the extent that Petitioner seeks information subject to the attorney-client privilege and attorney work product doctrine. Specifically, the document responsive to this request includes attorney client privileged communications between Illinois EPA BOL and Illinois EPA Department of Legal

Counsel providing legal advice on interpretation of 35 Ill. Adm. Code Part 724 regulations. Such privileged communications have been redacted.

Subject to the foregoing, the following redacted document responsive to Document Request No. 9 has been produced.

- John Roop, P.E. Review Notes (R 000942-000972; IEPA 000001-000023)

10. *Provide all memos, documents and communications related to the Illinois EPA's decision to issue the Final Determinations as Class I* [sic] modifications under 35 Ill. Adm. Code 703.280(d)(2)(A).*

RESPONSE: (TNH) and (JJR)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, Illinois EPA states that no such memos, documents, or communications exist. Illinois EPA, RCRA Program, Permit Section, reviews revisions and adjustments to the post-closure care cost estimates and associated financial assurance requirements as Class 1* modifications whether those revisions and adjustments result in an increased or decreased cost estimate, unless such revisions or adjustments are made through a permit renewal or other change requiring Class 2 or Class 3 modifications.

11. *Provide any and all checklists for reviews and approvals of the 10-year RCRA renewal application process for Laraway RDF from 2000 to present.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Illinois EPA objects to Document Request No. 11 on the grounds that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor proportional to the needs of the case, as required by Illinois Supreme Court Rule 201(c)(3). Specifically, Document Request No. 11 is overbroad, unduly burdensome,

and disproportionate to the needs of the case to the extent that Petitioner seeks the voluminous RCRA renewal submittals.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 11 have been or will be produced.

- RCRA Post-Closure Permit Application Completeness and Technical Review Checklist (IEPA 000062-000071)
- 2000 RCRA Checklists (IEPA 000188-000303)
- 2010 RCRA Checklists (IEPA 000304-000467)
- 2020 RCRA Checklists (IEPA 000468-000488)

12. *Provide any and all checklists for reviews of routine RCRA post-closure updates for Laraway RDF from 2000 to present.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 12 have been produced.

- Recommended Outline for Review Notes on RCRA Groundwater Projects (IEPA 000072-000075)
- RCRA Review Notes Checklist (IEPA 000076-000079)

13. *Provide any and all procedures, guidelines, guidance, or otherwise similarly described documents utilized by Illinois EPA for reviews of closure/post-closure updates for RCRA landfills.*

RESPONSE: (TNH)

Nothing herein shall be construed as an admission by Illinois EPA respecting the materiality, admissibility, or relevance of any fact or document, or of the truth or accuracy of any characterization or statement contained in this Document Request. Illinois EPA specifically reserves the right to amend and/or supplement its objections and/or add additional objections at a future time. Illinois EPA specifically reserves the right to amend and/or supplement its responses to this Document Request as additional information and documents become available.

Subject to the foregoing, the following non-privileged documents responsive to Document Request No. 13 have been produced.

- Guidance for Preparing RCRA Closure Plans (IEPA 000080-000159)
- USEPA Guidelines for Evaluating the Post-Closure Care Period for Hazardous Waste Disposal Facilities under Subtitle C of RCRA (R 000214-000232; R 001067-001085; IEPA 000160-000178)

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL,
Attorney General of the State of Illinois

By: /s/ Justin Bertsche
Justin Bertsche
Assistant Attorney General
Environmental Bureau
115 S. LaSalle Street, 23rd Floor
Chicago, Illinois 60603
(773) 505-5308
Justin.Bertsche@ilag.gov

DATE: December 23, 2025

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

CERTIFICATION

I, John Roop, of the Illinois Environmental Protection Agency, depose and state as follows: Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth in response to Waste Management of Illinois, Inc.'s Document Requests to Illinois Environmental Protection Agency are true and correct, and that both the documents already produced in the Record on Appeal and the additional documents provided herewith are fully responsive to Petitioner's request to the best of my knowledge and true belief.

John Roop 12/23/25
John Roop, P.E.

Environmental Protection Engineer IV
Bureau of Land/Permits Section/RCRA Unit
Illinois Environmental Protection Agency

EXHIBIT D

Post-Closure Care Implementation Workgroup Meeting

March 17, 2022

From: Colon, Lilybeth <Colon.Lilybeth@epa.gov>

Sent: Friday, March 4, 2022 11:36 AM

To: Colon, Lilybeth; Kohler, Amanda; Mooney, Susan; Diss, Paul; Krueger, Anna; Sommer, Tab; Pease, Michael; Murrow, Patricia; Lambesis, Christopher; Ramaly, Todd; Mirro, Rachel; Housley, Denise;

[REDACTED] Velasquez, Veronica; Filik, Eugene;

Rodgers-Smith, Delores; Vogel, Jennifer;

Cc: Tolaymat, Thabet; Krause, Max; [REDACTED] Mills, Jason

WRW – received invite to the meeting just minutes before it started. Therefore, due to previously scheduled meeting was unable to attend until 45 minutes into the meeting.

Agenda

- Introduction – Lilybeth
- Post-Closure Case Studies Report – Anna and Paul
- Post-Closure Summary – Lilybeth and Paul
- Post-Closure Rule – Tab

NOTES

- USEPA wants data to properly evaluate risk from closed landfills.
- RCRA was written with the idea of not ending post-closure care. But then kicked the can down the road 30 years.
- WRW: What is USEPA approach for land use restrictions on landfills seeking to exit pc care? Change in regulations, guidance, etc.?

Plan to have next meeting within a couple of weeks – not wait for 1 yr.

**Post-Closure Care Implementation Workgroup Meeting
March 28, 2022**

USEPA HQ: Colon, Lilybeth; Kohler, Amanda; Mooney, Susan; Diss, Paul; Krueger, Anna; Sommer, Tab; Pease, Michael; Murrow, Patricia; Velasquez, Veronica; Filik, Eugene; Rodgers-Smith, Delores; Vogel, Jennifer; Tolaymat, Thabet

USEPA Regions: Lambesis, Christopher; Ramaly, Todd; Mirro, Rachel; Housley, Denise

States: Rob Watson (IL), Takako Halteman (IL); [REDACTED]

Notes by: Rob Watson

Colon, Lilybeth <Colon.Lilybeth@epa.gov>; Kohler, Amanda <Kohler.Amanda@epa.gov>; Mooney, Susan <mooney.susan@epa.gov>; Diss, Paul <Diss.Paul@epa.gov>; Sommer, Tab <Sommer.Tab@epa.gov>; Pease, Michael <pease.michael@epa.gov>; Murrow, Patricia <Murrow.Patricia@epa.gov>; Lambesis, Christopher <Lambesis.Christopher@epa.gov>; Ramaly, Todd <ramaly.todd@epa.gov>; Mirro, Rachel <mirro.rachel@epa.gov>; Housley, Denise <Housley.Denise@epa.gov>; [REDACTED]

[REDACTED] Velasquez, Veronica <Velasquez.Veronica@epa.gov>; Filik, Eugene <Filik.Eugene@epa.gov>; Rodgers-Smith, Delores <Rodgers-Smith.Delores@epa.gov>; Vogel, Jennifer <Vogel.Jennifer@epa.gov>; [REDACTED]

Tolaymat, Thabet <Tolaymat.Thabet@epa.gov>; Krause, Max <krause.max@epa.gov>; [REDACTED]
[REDACTED] Watson, Rob <Rob.Watson@Illinois.gov>; Mills, Jason <Mills.Jason@epa.gov>

Agenda:

- Recap from previous meeting
- Challenges/impediments to renewing PC permits (open discussion)
- Post-closure Rule (discussion about the intent of the rule)
- Logistical items
 - Regular meetings (time and frequency)
 - Notetakers

Discussion Points

Recap from previous meeting

Challenges/impediments to renewing PC permits (open discussion)

WRW – what is focus of our work group? Case studies & state of PC program?

A: Need case studies and other data in order to discuss future policy or regulatory changes.

WRW – I think the draft report is very helpful, but this is not my concern. It is disposal units leaving PC without controls in place.

Tab S & LC asked if I thought it had to be a permit for ever, or if alternate options – I said permit or EC. But USEPA need to set criteria for what needs to be in an EC as they are voluntary. And if permit continues, are additional flexibility appropriate? If yes, what and when, why?

[REDACTED]

WRW – described current conditions in IL – keep sites in PC permit if pumping leachate or groundwater contaminant.

[REDACTED]

USEPA – looking to changing extending record retention time for PC permits. Because 3 yr requirement is too short.

Post-closure Rule (discussion about the intent of the rule)

Some view this as more flexible than it was intended to be.

Tab Sommer: issued in 1998. Allowed alternate enforceable documents instead of PC permits. Clean up of SWMUs & HWMUs w comingled releases – with 1 std for CA.

[REDACTED]

WRW – ok for PC under ISS? If not, should discuss this in evaluation. USEPA interested in maintaining ISS if site is not going to be permitted. Different authorities in different states therefore, difficult to answer.

[REDACTED]

Logistical items

- o Regular meetings (time and frequency)
- o Notetakers

Plan forward is to have bi-weekly meetings & identify individual topics to discuss and decide upon during each meeting.

**Post-Closure Care Implementation Workgroup Meeting
April 11, 2022**

USEPA HQ: Colon, Lilybeth; Mooney, Susan; Diss, Paul; Krueger, Anna; Sommer, Tab; Velasquez, Veronica; Vogel, Jennifer; Tolaymat, Thabet

USEPA Regions: Mirro, Rachel; Housley, Denise

States: Rob Watson (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- **Administrative:**
 - Approach for discussing specific topics
 - Note taker rotation

*Will follow the approach to discuss specific topics as there are many issues.
USEPA will record the meetings and use the transcript to generate notes.*

- **Requirements past PC:**
 - Under which circumstances can PCC be terminated?
 - What minimum level of controls (e.g., ICs) should be required/kept when terminating PC?
 - Institutional controls – how to ensure PC is not terminated without adequate ICs?
- **Next topics for discussion**

Recap from previous meeting

- Existing guidance doesn't answer all questions: do we recommend new answers, clarification, new regulations?
- Existing regulations do not require records to be kept during entire length of PC.
- What if certain units don't have required controls in place at end of PC?
- Some states ok w extending length of PC permits, other states received intense pressure to let sites out after 30 years.

Topics Discussed

- Why are we concerned about sites exiting PC without controls in place?
 - WRW – provided summary of concerns. No regulations prohibit development on haz waste disposal units (or landfills in general). Development of utility lines, building foundations, etc. in disposal unit can lead to water getting into unit, waste getting out, and therefore future concerns to human health & environment.
- Regulations 264.117 – examples of when PC period could be shortened. General criteria provided - but no specifics or what is needed to meet criteria.

- Do we want to go further to define these criteria?
- States – Yes States always need to provide more specificity.
- [REDACTED]
- IL WRW – can't leave PC if pumping leachate or if groundwater contamination.
- IL WRW – what if no leachate collection system in place? Should we require investigation to determine level of leachate?
- IL WRW – what if haz waste is treated to make it nonhazardous?
- USEPA HQ Thabet – cannot simply allow a site out after 3 years of clean groundwater monitoring. Closure of unit with listed haz waste - waste remains listed. Potential for future releases is concern for local communities. Groundwater modeling based on old data need to be questioned. Landfills will always generate leachate. All covers have some amount of permeability.
- USEPA HQ Paul – Just visited landfills in desert SW – all landfills still generate leachate. Rising threat from leachate over time.
- USEPA Lilybeth – initial regulations may have anticipated disposal units removing waste and clean closing when allowing a shortened PC period.
- USEPA Lilybeth – as long as waste in place - need controls.
- 2016 Guidance: inherent uncertainty associated with the long-term presence of hazardous waste in the unit. Together with uncertainties in whether controls will continue to function as planned, or changes with groundwater flow, degradation of cover system, etc.
 - ASTSWMO wanted a rebuttable presumption that sites had to continue PC if waste in place. But OGC said no based on existing wording of regulations.
 - PIT looking at criteria – are we really ok with ending PC if waste is left in place? What criteria must be met, and how to meet it?
 - IL WRW – when considering criteria / conditions for an EC, I recommend including a 5-year reopener clause like they have for superfund sites. This would allow USEPA & States to address issues that we cannot/do not foresee today. Future topic for discussion.
- Possible Summary – don't terminate PC unless waste is removed (SI closures), and even then, need controls (IC and/ or engineering controls) in place unless site can demonstrate unrestricted access is OK.
- How to address situations where facility does not agree with State / Fed interpretation of 2016 Guidance and the need to keep controls in place?
- 2 Parts: 1) When to terminate PC, and 2) if yes, what controls need to be in place.
- Lilybeth Q: Did we achieve goal of fully discussing topics identified for today's meeting?
 - WRW: Good productive discussion. However, may not have fully discussed initial topics. Others in group not here today may also have something to say.

**Post-Closure Care Implementation Workgroup Meeting
April 25, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Susan Mooney, Jennifer, Thabet Tolaymat, Mike Pease, Eugene Filik

USEPA Regions: Rachel Mirro (R2), Denise Housley, Jennifer Vogel (R3), Todd Ramaly (R5), Patricia Murrow (R7)

States: Rob Watson (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- None provided

Recap from previous meeting

- Recording meetings for future use / transcripts
- Under which circumstances can PC be terminated?
 - Site specific, not focusing on mechanisms.
 - Discussed 2016 Guidance: "*Inherent uncertainties associated with long term presence of hazardous waste.*"
- If waste in place, need to have controls in place. Existence of clean groundwater does not mean controls are not needed/required. No way of knowing what conditions will exist in the future.

Topics Discussed Today

- What minimum level of controls (e.g., ICs) should be required/kept when terminating PC?
- Institutional controls – how to ensure PC is not terminated without adequate ICs?
- How to address situations where a facility does not agree with State/Federal interpretation of 2016 Guidance.
- [REDACTED]
- PC can be terminated in cases where all waste removed, so all that remains is contaminated media.
 - If PC is terminated, remaining contamination must be covered under an enforceable document.
 - What if contamination is off-site?
- [REDACTED]
- Financial Assurance? Engineering controls, maintenance, groundwater monitoring, etc. (PB – it would be very helpful if USEPA would provide guidance on when and how FA should be required.)

- Public Participation? Good question – need to discuss further, later.
- If PC required for waste left in place, 10 yr PC renewal unless USEPA allows longer for extended PC care.
 - Note: States tied to PC requirements in regulations.
 - If Enforceable Document allowed, then PIT group would need to look into recommending min requirements, and how much flexibility to allow, etc.

**Post-Closure Care Implementation Workgroup Meeting
May 9, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Susan Mooney, Jennifer, Thabet Tolaymat, Mike Pease, Eugene Filik

USEPA Regions: Rachel Mirro (R2), Denise Housley, Jennifer Vogel (R3), Todd Ramaly (R5), Patricia Murrow (R7)

States: Rob Watson (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- **Main Topic: Post Closure Permits**
 - Main benefits
 - Challenges
 - Flexibilities
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
- **Link to meeting notes:**
<https://teams.microsoft.com/#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes>

Recap from previous meeting

- Targeting topics
- Under which circumstances can PC be terminated?
 - A: when waste has been removed. Plus confirmation from groundwater monitoring that there is no unacceptable risk.
 - [REDACTED]
 - Controls: institutional and engineering. Also, alternative enforceable document may be ok.
 - Do controls also need to address off-site contamination?
 - Financial assurance and public participation also topics to be discussed.
 - Discussed 2016 Guidance: good starting point, but agreed that more clarification is required. Need to further clarify point about waste remaining in place.
 - If waste in place, need to have controls in place. Existence of clean groundwater does not mean controls are not needed/required. No way of knowing what conditions will exist in the future.

Topics Discussed Today

- Goal: compile work group's comments and return to HQ so that policy statement could be made. Option under consideration– propose revisions to PC rule and get public comments via FR.
- PC Permits focus.
- Alternate enforceable document – lets tackle PC Permit first.
- WRW: question about time frame for certification of completion of PC care set up in 724.220 and 724.245. 60 days review time – confirmed – but LC will check on this.
- [REDACTED]
- [REDACTED]
- LC USEPA – reiterated that 2016 guidance recommends setting up process for exiting PC early so facility understands what needs to be provided with certification.
- IL: described situation at North Chicago site. Plan is to require additional information and then call in PC permit – w corrective action.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Almost like a choice for the facility to pursue PC permit vs a CO. we need to understand this better. How will our recommendations be interpreted, what are consequences, how do they motivate facilities.
- PC permit v CO is a business decision (strategy) for a facility. Push back from sites just a way to try and get fewer / less conditions and restrictions at the site.

**Post-Closure Care Implementation Workgroup Meeting
June 6, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Rachel Mirro (R2), Denise Housley, Jennifer Vogel (R3), Todd Ramaly (R5), Patricia Murrow (R7)

States: Rob Watson (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- **Main Topic: Post Closure Permits Part II**
 - Maintenance of PC Permits
 - Challenges and flexibilities
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aachbeca6a7>
- **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Recap from previous meeting

- WRW – Last mtg had question about 60 day clock for certification of completion of post-closure care. Responses from group helped. We will be sending out comments to pause the 60 day clock. IEPA will identify items required during PC that site did not do and follow criteria for PC outlined in USEPA 2016 guidance when we send comments to facility. Will also require them to get RCRA PC Permit. [REDACTED]

Topics Discussed Today

- Under which circumstances do facilities want to get out of PC?
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - USEPA – PC period was originally meant to be flexible, because at time of drafting regulations, no one had experience with PC or what would be involved.
 - Effort to maintain a PC permit. A: easier to maintain and modify a RCRA PC permit than it is an Order.

- (IL) Sites want to develop site, so either permit or Order would restrict this option. 30 years is also cited as a reason.
- [REDACTED]
- CA is often done thru omnibus authority, which could limit requirements (harder to get things done using omnibus). [REDACTED]
[REDACTED]
- Why an Order over PC Permit?
 - (IL) Facility hoping for more flexibility under Order vs Permit.
- What if USEPA offered revised regulations that included flexibilities for Alt Enf Documents (Orders) rather than permits?
 - IL [REDACTED] Not sure this would help. Example of an order could prohibit flexibility that State would want (e.g. wanting to sample a different parameter). Permit would allow this flexibility when an order would not.
 - IL [REDACTED] Permit mod vs revision to Order. Permit modification much easier than modifying an Order. Orders involve lots of negotiating. Lawyers want to argue each line, word in order to gain flexibility, make enforcement harder to achieve, and thus lower costs whenever possible.
 - [REDACTED]
- What about losing federal enforceability? (USEPA could not enforce a State Order)
 - Interesting question, not thought about this.
 - Want to avoid unintended consequences.
- When is it appropriate to terminate a PC or CA only permit?
 -
- What do States want from USEPA? Flexibility?
 - [REDACTED]
- What about FA; is it an impediment?
 - FA is always a relevant topic to discuss. Our agenda is to protect human health and the environment, a facility's agenda is to not spend money that doesn't help their business make money.

**Post-Closure Care Implementation Workgroup Meeting
August 15, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Mike Pease, Susan Mooney, Eugene Filik

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7)

States: Rob Watson (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- ASTWSMO PC position paper
- Start discussion on alternate authorities for PC
- Permitting Updates Rule (future FR publication)
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
- **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Topics Discussed Today

- Lots of things happening at USEPA. USEPA attending ASTSWMO conference, ASTSWMO Position Paper – very timely, may impact USEPA's approach to PCC exit. Gives EPA something to go to management with when arguing various points.
- **ASTSWMO Position Paper**
 - USEPA considering using position paper as a vehicle in FR preamble to permitting updates rule to address "novel items." This allows USEPA ability to reference key items & soliciting comment these items. Novel Ideas: Post-Closure Exit, EJ, Emergency Response & preparedness, permit modifications, used oil.
- **ASTSWMO Position paper – wrw discussion summary.**
 - Issues #1 presumption that controls are required if waste disposed of – would require regulatory change. Still an area for USEPA to work on.
 - Issue #2: Financial Assurance –
 - Issue #3: Alt enforceable document – minimum requirements:
 - Issue #4: emerging contaminants.

- USEPA: L. Colon: Questions for the group:
 - Q: How long to maintain PC? A: For as long as waste is in place.
 - Orders, wording of COs, transfer of ownership can complicate path forward.
 - Can we extend permit terms in a way that minimizes regulatory burden?
 - Are alternative enf documents allowed? Can I terminate PC permit and then use an order?
- [REDACTED]
- IL: WRW – prefer PC permit as all criteria are specified. If alt enf doc used, need to identify all criteria. If repeat all PC permit criteria, lawyers will argue over each sentence. It would be very helpful from State perspective for USEPA to spell out general guidelines for alt enf documents. Understand that EPA probably can't put specific requirements in regulations.
- [REDACTED] A: no response from group.
- USEPA: Mike Pease- use of alt documents in CA.
- IL: WRW – have some experience with alt enf documents in IL but they are associated with long term care following 3008(h) orders. US Ecology & Beazer East.
- USEPA: will be publishing guidance clarifying & updating webpage on PC rule. Would briefing from USEPA on clarification of PC Rule be helpful? Yes – depends on extent of changes. Mike Pease indicated he thought updates just clarified well understood concepts, and real changes were minor in nature.
 - IL: WRW – EPA could partner w ASTSWMO to have training / webinar on PC regulations, PC Rule, and how the 2016 guidance can be used to clarify grey areas in regulations.

**Post-Closure Care Implementation Workgroup Meeting
September 12, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Tab Sommer, Anna Krueger, Mike Pease, Eugene Filik, Denise Housley

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- Overview of discussions at ASTSWMO training conference
- PC Summary – what information would be helpful to include in the PC summary?
- Discussion question: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
- **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Topics Discussed Today

• **ASTSWMO Conference**

- Permitting Update Rule next spring 2023 will be used to discuss PC Topic
- Closing Plenary session – much discussion on PC. [REDACTED]

○ [REDACTED]

• **Post closure rule summary added to EPA web site:**

<https://www.epa.gov/hwpermitting/final-rule-post-closure-permit-requirement-and-closure-process>

- **PC Summary**

- 2 Documents: Case Studies Report (received 3/17/2022) & document EPA has not sent out yet. USEPA has received list of sites where PC was terminated. Looking for additional sites where PC was extended. WRW – IL just extended PC period for N Chicago site
- USEPA – what are States looking for? A memo stating clearly when PC needs to continue (forever).
- [REDACTED]
- IL - summary of Vision Properties & CECO sites
- [REDACTED]
- [REDACTED]
- USEPA Anna – shoot email to Anna Krueger about case studies.

- **Discussion question: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?**

- IL – important to communicate position w facilities.
- [REDACTED]
- [REDACTED]
- IL – looking at FA for length of permit – 10 years.
- [REDACTED]

Discussion Question and FA for next call.

**Post-Closure Care Implementation Workgroup Meeting
September 26, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Tab Sommer, Anna Krueger, Mike Pease, Eugene Filik, Denise Housley

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- Overview of discussions at ASTSWMO training conference
- PC Summary – what information would be helpful to include in the PC summary?
- Discussion question: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40tthead.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
- **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Topics Discussed Today

Topic/questions:

1. Permitting Update Rule: would like to obtain some feedback on a few items to be included in the PUR
 - What do you find to be incongruous with the closure-related definitions below?
 - 260.10 Active life of a facility means the period from the initial receipt of hazardous waste at the facility until the Regional Administrator receives certification of final closure.
 - 260.10 Partial closure means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of parts 264 and 265 of this chapter at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.
 - 270.2 Closure means the act of securing a Hazardous Waste Management facility pursuant to the requirements of 40 CFR part 264.
 - 260.10 Final closure means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that

hazardous waste management activities under parts 264 and 265 of this chapter are no longer conducted at the facility unless subject to the provisions in § 262.34.

- What are your thoughts about potentially allow Post-closure Care permits to be effective for longer fixed terms (i.e., longer than 10 years since there is not a statutory requirement for PC permits)? Would it be helpful to have a policy where the five-year review of land disposal facility permits only applies to operating land disposal facilities as opposed to those land disposal facilities conducting post-closure care? Would longer terms and review periods help manage the backlog of permits and reduce administrative burden?
- The provisions that allow alternative requirements for regulated units with comingled releases (aka "PC rule" at 264.110(c)/265.110(d) and 264.90(f)/265.90(f)) were developed specifically to aid in a "*corrective action cleanup*." How would you term that broad term? Is "corrective action cleanup process" appropriate?

WRW comments:

- Current wording regarding closure is confusing between closure of units and entire facility. Recommend using the word "facility" in regulations when this is what is intended.
- Active life of a unit should not end with the receipt of a certification of closure, but rather with the approval of that certification of closure. Lots of things can add years to the process of approving a certification of closure.
- Active life can be confusing. In general, it is interpreted to the active management of waste at a site, but per landfill closure regulations 724.410 (264.310) a facility is required to manage leachate during post-closure until there is no more leachate. Is this active management of waste? What if the site has a leachate storage tank used to manage leachate prior to off-site shipment?
- Final Closure is referenced in closure regulations for landfills (264.310) when it clearly is intended to refer to an individual landfill or cell.
- There was some discussion about the role of PC and CA wrt Final Closure. ■■■ IL stated final closure of a unit does not involve PC or CA. These are separate regulations & requirements. CA may continue for a very long time after a unit or facility has achieved final closure of a HWMU.

USEPA then asked this group of States to provide written comments to these and other questions posed by USEPA HQ regarding the Permit Update Rule within a week's time – specifically those on closure.

I cautioned that with a short deadline comes short responses. USEPA said that's ok.

2. If time allows: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?

No time to discuss this

**Post-Closure Care Implementation Workgroup Meeting
October 11, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Tab Sommer, Anna Krueger, Mike Pease, Eugene Filik, Denise Housley

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- Revisit previous recommendations
- Alternative authorities
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aachbeca6a7>
- **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Topics Discussed Today

1. **Revisit previous recommendations: Permitting Update Rule: would like to obtain some feedback on items to be included in the PUR.**
 - **Using preamble for PUR to introduce some new items:**
 - **Longer terms for PC permits (option – not a mandate)**
 - No complaints voiced during RCRA Permit Writers call
 - Unintended Consequences? Possible fiscal impact for States who charge fees for permit renewals.
 - Per USEPA attorneys; Term limits for PC permits are not mandated in the same way as regular RCRA permits. So, this could mean some flexibility in regulatory interpretation of issue.
 - Benefit would be lower admin cost for permittees and States (fewer reviews required over length of permit).
 - [REDACTED] USEPA: Requirement for permit continues even if all HWMUs are clean closed but there is corrective action required.

○ **Financial Assurance**

- **Updates to the cost estimate**
- **Adjustments for inflation**
- **IL – min of 10 years of FA required as permit condition. Even if site has been in PC for 25 years and is not leaking or pumping leachate.**
- [REDACTED]

○ **Alternative Authorities**

- **What would the allowance of Alternate Authorities give us? Pros & Cons?**
- **Would it make sense to allow them under specific circumstances?**
- [REDACTED]
- [REDACTED]
- [REDACTED]
- **IL – (TNH) Agree; permit preferred. If something changes at site, need to reopen CO to revise it; if permit, just do permit mod.**
- **IL – TNH) example of site that is not leaking and wants a CO instead of a permit after 30 years.**
- **IL - Request USEPA develop guidance on what minimum requirements of what need to be specified in an alternative enforceable document.**
USEPA – Could do that BUT – if that guidance exists, then sites will conclude that an alt enf doc is ok to use. Is that the message we want to send.
- **WRW – key thing to remember is that we are trying to develop a regulatory framework for landfills that will adequately cover situations like a release at some future point in time. Its very hard to guess what will occur in 40-50-100 years. Yet, that is what we are trying to accomplish.**

**Post-Closure Care Implementation Workgroup Meeting
November 7, 2022**

USEPA HQ: Lilybeth Colon; Paul Diss, Tab Sommer, Anna Krueger, Mike Pease, Eugene Filik, Denise Housley

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Notes by: Rob Watson

Agenda:

- Answers to PC questions from ASTSWMO
- Crafting of potential questions to be included in PUR preamble language
- **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
- **Link to meeting notes:**
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Topics Discussed Today

1. Answers to PC questions from ASTSWMO.

- Concerns from PC work group: FA, continued PC care, etc.
- USEPA looking to proposed changes, but still exploring options. Trying to determine how comfortable to propose specific questions in FR Update that might influence future rule making.
- Discussed USEPA questions and responses. Note: IL already provided responses to USEPA and ASTSWMO (10/14/2022).
- USEPA, current thought is to not making longer term permits; but how to improve PC permit process.
- WRW – important to get the point across that PC will be in perpetuity, and that both facilities and USEPA need to plan for flexibility. Climate change may – will impact 100 yr flood plain, so some sites may be impacted by that, and simple monitoring and inspection of a PC landfill may no longer be adequate. That is, it may get more expensive.

- How to pay for PC care. USEPA – attempted PC liability fund but learned quickly it was not funded sufficiently.
- Solar panels on landfills to pay for PC care. WRW – possible, but too early to tell. What happens if a landfill with solar panels needs to address a gas, or leachate problem but solar panels are in the way? Also, current run-on / run-off systems designed without panels, will probably need to re-engineer drainage systems on landfills if solar panels are installed.

**Post-Closure Care Implementation Workgroup Meeting
January 30, 2023**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7), Lauren Stanfield (R7), Christian Baker (R9)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

Lauren Stanfield (R7), Christian Baker (R9),

Notes by: Rob Watson

Agenda:

- PC Updates
- PC Data – Is the information helpful to states
- PC question: Signatory on RCRA Post-Closure Permit with Corrective Action (see attachment)
 - **Link to workgroup Teams site:**
<https://teams.microsoft.com/l/team/19%3aca4344eab52f42898632d11c2b8d7585%40thread.skype/conversations?groupId=938c99a8-d623-4f1a-93f5-44e82efa7c8a&tenantId=88b378b3-6748-4867-acf9-76aacbeca6a7>
 - **Link to meeting notes:**
https://teams.microsoft.com/_#/files/General?threadId=19%3Aca4344eab52f42898632d11c2b8d7585%40thread.skype&ctx=channel&context=Mtg.%2520Notes&rootfolder=%252Fsites%252FPost-ClosureCareImplementation%252FShared%2520Documents%252FGeneral%252FMtg.%2520Notes

Topics Discussed Today

USEPA apologize for cancelling mtgs – lots of time spent on Permitting update rule

1. PC Updates.

- Permits Update Rule: Scope is for existing rules & policy, fixing typos, clarification, etc. Will use preamble to Update Rule to ask questions & PC care is one of those issue.
- ASTSWMO Position Paper on PC Care triggered need to hear from ASTSWMO, public, others.
- Current case study project on hold pending publishing of Permit Update Rule
- PC summary will be used as part of the preamble for the Permits Update Rule
- Permit Writer and Inspector work group; [REDACTED]

- Combination of groundwater contamination, Inspectors: faded warning signs, problems w fencing & gates, holes dug by animals into the final cover.
- Added on an additional 30 yrs of PC care due to problems found during inspection.

2. PC Data

- Paul Diss (USEPA HQ) shared screen of RCRA Info data report based on last effective date on permit + 30 yrs
 - Data captures renewals.
 - Units projected to leave PC in coming years (2023-2048)
 - 2023- 22 units, 2024-37 units, 2025 -77 units
 - 1131 cumulative units by 2052
 - R6 – 325 units
 - R5-125 units
 - R2 - > 200 units

3. PC Question on Signatory on permit application

- Permit Writers Call question: PC permit with CA. However, no more PC requirements – CA only.
 - Any States re-issue a permit without the owner signing?
- WRW – summary of IS sites in IL where we are extending PC Care: N Chicago, RCH Newco, Voyant (KIK)
- WRW Action Items:
 - Send RCH Newco letter and PN to Lilybeth.
 - Send info for Voyant to Paul Diss

Concerns from PC work group: FA, continued PC care, etc.

- USEPA looking to proposed changes, but still exploring options. Trying to determine how comfortable to propose specific questions in FR Update that might influence future rule making.

- Discussed USEPA questions and responses. Note: IL already provided responses to USEPA and ASTSWMO (10/14/2022).
- USEPA, current thought is to not making longer term permits; but how to improve PC permit process.
- WRW – important to get the point across that PC will be in perpetuity, and that both facilities and USEPA need to plan for flexibility. Climate change may – will impact 100 yr flood plain, so some sites may be impacted by that, and simple monitoring and inspection of a PC landfill may no longer be adequate. That is, it may get more expensive.
- How to pay for PC care. USEPA – attempted PC liability fund but learned quickly it was not funded sufficiently.
- Solar panels on landfills to pay for PC care. WRW – possible, but too early to tell. What happens if a landfill with solar panels needs to address a gas, or leachate problem but solar panels are in the way? Also, current run-on / run-off systems designed without panels, will probably need to re-engineer drainage systems on landfills if solar panels are installed.

**Post-Closure Care Implementation Workgroup Meeting
February 13, 2023**

USEPA HQ: Lilybeth Colon; Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7), Lauren Stanfield (R7), Christian Baker (R9)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]
[REDACTED]

Notes by: Rob Watson

Agenda:

- Discuss IEPA 11-15-2022 letter to RCH Newco extending the PC Care period
- Discuss RCH Newco 12-19-2022 response to IEPA letter

Topics Discussed Today

1. IEPA 11-15-2022 Letter Notifying facility of extension of PC care.

- WRW summary of letter – basic application of the IS regulations; required extension of PC Care & submittal of PC Permit application.

2. RCH Newco 12-19-2022 Response

- WRW summary of letter: looks like facility will appeal IEPA final decision.
- Argues that there is no current risk – therefore, continuation of PC care not required by regulations.
- Uses USEPA 12-15-2016 guidance memo against IEPA by arguing that IEPA did not take into account all of the criteria cited in the memo.

Follow-UP Discussion

- Suggest that if USEPA changes regulations to allow PC in perpetuity OR EC; specify minimum criteria that have to be included in EC.

• [REDACTED]

- **USEPA Schedule for Permit Update Rule and request for comments – Fall of 2023**

• [REDACTED]

**Post-Closure Care Implementation Workgroup Meeting
February 13, 2023**

USEPA HQ: Lilybeth Colon; Denise Housley, Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7), Lauren Stanfield (R7), Chris Baker (R9)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]
[REDACTED]

Notes by: Rob Watson

Agenda for today:

Summary from last mtg. RCH Newco IEPA summary of notice to extend PC care, and Facility comments in response.

1. PC Financial Assurance

Illinois EPA is in the process of reviewing the renewal applications for a large number of RCRA post-closure permits over the next several years. We are considering revising how we address the financial assurance requirements for post-closure at these facilities and would like to know how other States (& Region 7) address them.

In the past, IL has allowed facilities to pro-rate financial assurance (FA) to reflect the number of years they have been in post-closure (e.g. if they have completed 10 years of post-closure care, they would only need to provide FA for 20 years, etc.). As sites are now approaching 30 years of post-closure care, more recently IL has required they maintain a minimum of 10 years of FA (e.g. the length of a RCRA permit). However, IL is rethinking this approach and are considering requiring these facilities to provide 30 years of FA as this appears to be more consistent with the regulations.

How other states require facilities in post-closure to address the financial assurance requirements for the following two scenarios?

- For a facility that is in post-closure, does your State require they maintain 30 years of financial assurance or something less than 30 years? If less than 30 years, do you have a minimum?
- For a facility that has completed 30 years of post-closure care, but has extended post-closure care due to groundwater contamination, or still pumping leachate, does your State require they maintain 30 years of financial assurance or something else?

2. [REDACTED]

Topics Discussed Today

1. PC Financial Assurance

- For a facility that is in post-closure, does your State require they maintain 30 years of financial assurance or something less than 30 years? If less than 30 years, do you have a minimum?
- For a facility that has completed 30 years of post-closure care, but has extended post-closure care due to groundwater contamination, or still pumping leachate, does your State require they maintain 30 years of financial assurance or something else?
- USEPA HQ: Housley D.: States that she works with require rolling 30-year FA.
- UEAPA HQ: Pease M.: OSC most states use rolling 30 yr average for FA. Need detailed annual cost estimate. Cost estimates are often very underestimated.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- 264.144(c): adjusting FA during "Active Life" of facility.

2. [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

**Post-Closure Care Implementation Workgroup Meeting
March 13, 2023**

USEPA HQ: Lilybeth Colon; Denise Housley, Paul Diss, Anna Krueger, Mike Pease, Tab Sommer

USEPA Regions: Jennifer Vogel (R3), Patricia Murrow (R7), Lauren Stanfield (R7), Chris Baker (R9)

States: Rob Watson (IL), Takako Halteman (IL), [REDACTED]

[REDACTED]
Eugene Filik, [REDACTED]

Notes by: Rob Watson

Agenda for today:

1. Update on Illinois RCH Newco Facility – extension of Post-Closure Care period

WRW provided summary and update on status of extending PC period at RCH Newco site in Illinois. IEPA noticed public hearing scheduled for April 19, 2023. It will be a virtual hearing.

EJ: RCH Newco facility not in EJ Area per IEPA SWAP tool.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EJ – new USEPA tool CEJST

**Post-Closure Care Implementation Workgroup Meeting
April 10, 2023**

USEPA HQ: ~~Lilybeth Colon~~; Denise Housley, ~~Paul Diss~~, Anna Krueger, Mike Pease, ~~Tab Semmer~~, Molly Finn

USEPA Regions: ~~Jennifer Vogel (R3)~~, Patricia Murrow (R7), ~~Lauren Stanfield (R7)~~, ~~Chris Baker (R9)~~

States: Rob Watson (IL), Takako Halteman (IL), Jacki Cooperider (IL), Kelly Huser (IL),
~~[REDACTED]~~ ~~Eugene Filik~~, ~~[REDACTED]~~
~~Emily Keener ? Delores Rogers-Smith ?~~

Notes by: Rob Watson

Agenda for today:

Financial Assurance for Post-Closure

USEPA (Mike Pease) provided slides for today's meeting.

- Regulations do not require 3rd party sudden & non-sudden liability insurance for PC period.
- Cost estimate in dollars from year of application, annual cost estimate based on 3rd Party costs, annual cost x number of years required for PC care (30 years) = amount of FA required for PC.
- Q: Can you use discounting for PC care costs (like for CA)?
A: No.
- Cost estimate (FA) must be adjusted for inflation each year or if annual cost estimate needs to be revised.
- Overview of FA mechanisms. Some mechanisms have the ability to grow in value, and could exceed the value required to cover the PC cost estimate.
- Release of FA; 264.145(i). Tied to certification of completion of PC care. State/USEPA must provide basis for not releasing FA. None of the mechanisms can be terminated without approval from State/USEPA.
- ASTSWMO Position Paper 2022: Identified need for clarification of FA requirements during extended PC period. This is on USEPA's radar, still working on this.

Questions/ Comments/Discussion

- Housley: Facility (in R4) is proposing to deduct number of years remaining in 30 year period from cost estimate. State said no and is receiving pushback from facility. Is facility proposal ok? Would like clarification from USEPA.
- IL: cited wording at 264.145(a)(10) that is being used by facilities to justify decreasing amount of FA required during PC.

- [REDACTED]
- [REDACTED]
- USEPA: M. Pease thoughts (not USEPA position/policy) – USEPA may have initially envisioned the ability to decrease the amount of FA.
- Housley: This seems to contradict position of needing to maintain FA since waste remains in place.
- IL: Agreed with Housley
- USEPA M. Pease: Recommend that States be early and proactive in extending post-closure period. Don't let it get close to the 30 years when renewing RCRA permits.
- Housley: Agree. Will recommend to R4 reviewer to extend pc care period in permit renewal. Asked for suggested regulatory citations to justify position.
- IL: Suggest citing 264.31 as justification.
- IL: Q: Has any state required 30 years x annual cost for FA in a permit. A: no answer. USEPA suggested bringing this up in National FA conference call.
- [REDACTED]
- Mike Pease and Anna Kruger are on the FA team at USEPA HQ. contact them with any FA questions.

**Post-Closure Care Implementation Workgroup Bi-Weekly
9/12/2022 at 11:30 CST Call**

Agenda:

- Overview of discussions at ASTSWMO training conference
- PC Summary – what information would be helpful to include in the PC summary?
- Discussion question: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?

Overview of discussions at ASTSWMO training conference

Updates on what have discussed at august conference

- Future exist strategies
- Solar panels
- Climate change
- Long term solution
- Need for further discussion and meeting needed?

PC Summary – what information would be helpful to include in the PC summary

available documents for post-closure care:

- PC summary reports – will be shared with Lilybeth?
- Case study? Check list or summary??

Ana Krueger and Paul Diss. Case study.

[REDACTED]

[REDACTED]

[REDACTED]

Post-Closure Care Implementation Workgroup Bi-Weekly
6/26/2022

Updating agenda for today's meeting. See below.

Topic/questions:

1. Permitting Update Rule: would like to obtain some feedback on a few items to be included in the PUR
 - What do you find to be incongruous with the closure-related definitions below?
 - 260.10 *Active life* of a facility means the period from the initial receipt of hazardous waste at the facility until the Regional Administrator receives certification of final closure. **This definition needs to be expanded.**
 - 260.10 *Partial closure* means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of parts 264 and 265 of this chapter at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.
 - 270.2 *Closure* means the act of securing a Hazardous Waste Management facility pursuant to the requirements of 40 CFR part 264.
 - 260.10 *Final closure* means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under parts 264 and 265 of this chapter are no longer conducted at the facility unless subject to the provisions in § 262.34.
 - What are your thoughts about potentially allow Post-closure Care permits to be effective for longer fixed terms (i.e., longer than 10 years since there is not a statutory requirement for PC permits)? Would it be helpful to have a policy where the five-year review of land disposal facility permits only applies to operating land disposal facilities as opposed to those land disposal facilities conducting post-closure care? Would longer terms and review periods help manage the backlog of permits and reduce administrative burden?
 - The provisions that allow alternative requirements for regulated units with comingled releases (aka "PC rule" at 264.110(c)/265.110(d) and 264.90(f)/265.90(f)) were developed specifically to aid in a "corrective action cleanup." How would you term that broad term? Is "corrective action cleanup process" appropriate?
2. If time allows: How to engage owners/operators throughout the PC period? How early should regulators start discussions with the o/o?

Post-Closure Care Implementation Workgroup Bi-Weekly

Monday, February 27, 2023 11:30 AM-12:30 PM

Last Call Summary: IL shared RCHNewso's Post closure care period extension notice letter and also the facility's comment from the public comment period. Update: IL is issuing a letter that we are holding a Public Meeting.

Agenda for today:

1. PC Financial Assurance

Illinois EPA is in the process of reviewing the renewal applications for a large number of RCRA post-closure permits over the next several years. We are considering revising how we address the financial assurance requirements for post-closure at these facilities and would like to know how other States (& Region 7) address them.

In the past, IL has allowed facilities to pro-rate financial assurance (FA) to reflect the number of years they have been in post-closure (e.g. if they have completed 10 years of post-closure care, they would only need to provide FA for 20 years, etc.). As sites are now approaching 30 years of post-closure care, more recently IL has required they maintain a minimum of 10 years of FA (e.g. the length of a RCRA permit). However, IL is rethinking this approach and are considering requiring these facilities to provide 30 years of FA as this appears to be more consistent with the regulations.

How other states require facilities in post-closure to address the financial assurance requirements for the following two scenarios?

- **For a facility that is in post-closure, does your State require they maintain 30 years of financial assurance or something less than 30 years? If less than 30 years, do you have a minimum?**

Region 4 –Denise Housley Requires 30 years.

[REDACTED]

[REDACTED]

FA Working group - FAsupport@epa.gov To raise topics on the monthly EPA-State FA call

What the definition of Rolling – this needs to be defined.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- For a facility that has completed 30 years of post-closure care, but has extended post-closure care due to groundwater contamination, or still pumping leachate, does your State require they maintain 30 years of financial assurance or something else?

2.

[REDACTED]

Post-Closure Care Implementation Workgroup Meeting

Monday, October 2, 2023 11:30 AM-12:30 PM Hosted by Colon, Lilybeth

<Colon.Lilybeth@epa.gov>

Update 3: Hello! For today's call we now have two topics listed below. Talk with you soon!

Topics:

- (1) Has anyone used the authority in 40 CFR 264/265.117 to extend the post-closure care period for an additional period longer than 30 years?**

[REDACTED]

[REDACTED]

[REDACTED]

Any CA or just post-closure care (Subpart F, post-closure care).

No specific waste stream. – Detection Only PCC.

- (2) RCRA PC landfill leachate** - Region 7 is working on a matter that pertains to a RCRA post-closure landfill. The landfill's Respondents have requested the Agency to consider "creative" and "flexible" alternatives to pumping and disposing of the landfill's hazardous waste leachate, F039.

Is anyone aware of such "creative, flexible" alternatives to strict hazardous waste disposal of landfill leachate? For example, does anyone have experience with a facility conducting some sort of on-site treatment of the leachate that would "remove" the waste listing code? All experience and feedback on this matter are appreciated. EPA R7 Contacts: Pat Murrow, murrow.patricia@epa.gov and Dan Gravatt, Gravatt.dan@epa.gov.

F09 waste leachate delisting – rejected.

Any "creative and flexible" alternative disposal.

[REDACTED]

EXHIBIT E

Craig Thedwall

From: Kristen Gale <kg@nijmanfranzetti.com>
Sent: Wednesday, August 6, 2025 3:15 PM
To: Bertsche, Justin; Tikalsky, Nancy
Cc: Jennifer Nijman
Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Thanks for the call today – as discussed – below are my questions and requests to date related to the State's responses to our discovery requests:

- 1) Please provide a privilege log for your responses to document requests no. 7, 8, and 9 and any other place you claimed a privilege.
- 2) Please explain the redaction described in response to Document Request No. 11 and the basis for the redaction
- 3) Please confirm as you described in our conversation that providing “non-privileged” information in your responses to document requests and answers does not mean that there was privileged information withheld unless it is on the privilege log.
- 4) For the documents described in your answers to interrogatories and responses to documents – please update your responses to their proper Record or Bates number pursuant to IL S. Ct. Rule 214. Also, as requested in our requests, please provide the documents as they are stored, which in this case means searchable.
- 5) For document request no. 3, please provide all of the documents without redactions. As discussed, redactions based on relevancy are not proper. In any case, the Agency relied upon State information as part of its decision making process (see R000961-962, R001086-1087) making the documents relevant. Indeed, as another example, the redactions involved Illinois specific sites that the State relied upon in its decision (see e.g. - R000961 and IEPA_000052). Your reliance on Rule 201(c)(3) is improper – that section is for when the burden or expense is outweighs the benefit. Here – you provided 16 documents in response, each only two pages, which does not appear to be a burden to provide. Moreover, under the Board rules “All relevant information and information calculated to lead to relevant information is discoverable,...” 35 IAC 101.616(a).

We are still reviewing the responses and may have additional requests or comments.

For tomorrow, we agreed to ask for a status with the hearing officer in 60-90 days. Upon reflection, unless you object, I think we should request 90 days. We can report to the hearing officer that we are working through issues related to the written discovery, and would like to hold off on preparing a schedule for depositions.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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From: Bertsche, Justin <Justin.Bertsche@ilag.gov>

Sent: Wednesday, August 6, 2025 9:18 AM

To: Kristen Gale <kg@nijmanfranzetti.com>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Kristen,

Does 9:30 this morning work for you? If so, can we call you at the number in your email signature?

Thank you,
Justin

From: Kristen Gale <kg@nijmanfranzetti.com>

Sent: Wednesday, August 6, 2025 8:44 AM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: [EXTERNAL] WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Do either of you have time today to talk about the WMIL v. IEPA matter? I'm open between now and noon and 3-5. I'm also open tomorrow morning before our status.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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EXHIBIT F

Craig Thedwall

From: Kristen Gale
Sent: Wednesday, October 8, 2025 1:01 PM
To: 'Bertsche, Justin'; 'Tikalsky, Nancy'
Cc: Jennifer Nijman; Craig Thedwall
Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Justin and Nancy,

Thanks again for chatting and emailing with me on August 6th. Following up on my April 6, 2025 email, we've gone through the State's responses to WMI's discovery request and have a few questions:

- I. We noticed a few missing documents that were identified in the record or a document, but not included in the documents. Please update the discovery to include the missing documents identified below:
 1. It appears that the documents are almost exclusively from the files of John Roop, and do not include emails, correspondence, or documents from other Agency personnel, including Shawntay Dial, (IEPA000006) who also reviewed the application, and both Rob Watson and Takako Halteman, (IEPA000025-54) who attended Bi-Weekly meetings with U.S. EPA. Please conduct document searches with all relevant IEPA personnel, including the personnel identified herein.
 2. Illinois EPA considered Laraway's annual reports in the permit decision, but these annual reports were not included in Illinois EPA's response (IEPA000015). Please provide or indicate in the Record where they are located.
 3. Illinois EPA considered "historical records" in the permit decision, but these records were not included in Illinois EPA's response (IEPA000019). Please provide, or please identify the Record location of the "historic records."
 4. Illinois EPA's records indicate that that Illinois EPA provided communications to U.S. EPA and Association of State and Territorial Solid Waste Management Officials (ASTSWMO) on October 14, 2022, but Illinois EPA has not provided this communication. (IEPA000044). Please provide this communication as well.
 5. Illinois EPA's records indicate that a Bi-Weekly meeting with U.S. EPA occurred on February 27, 2023, but did not include those meeting notes. (IEPA000050). However, we noticed that there were two sets of meeting notes dated for the same day in January 2023. Would you please confirm that the second set of January 2023 notes are the February 2023 notes, or if that's not the case, provide the February 2023 notes?
 6. Illinois EPA's records indicate that "USEPA (Mike Pease) provided slides for today's meeting," but Illinois EPA did not provide those slides. (IEPA000053). Please provide the slides that USEPA provided to IEPA for this meeting.

7. Illinois EPA provided a blank permit checklist instead of the requested Laraway RCRA checklists. (IEPA000062). Please provide the completed checklist or confirm that IEPA did not use this checklist.
- II. Privilege Log -, as discussed, in August, please provide a privilege log for the withheld documents and any redactions due to a claim of privilege. Also, please confirm that all documents withheld for privilege are included in the log, as each of your responses to the discovery request referred to “the following non-privileged documents” and we are unclear whether this language indicates that privileged documents have been withheld for every request.
- III. Relevancy Claims – many of the documents responding to Request 3 were redacted as over-broad, unduly burdensome, and irrelevant. However, these objections are a bit misplaced. “The scope of information considered relevant can be broad, including both evidence that would be admissible at trial and information leading to discovery of admissible evidence.” *People ex rel. Madigan v. Stateline Recycling, LLC*, 2020 IL 124417, ¶32, citing *Monier v. Chamberlain*, 31 Ill. 2d 400, 403 (1964). Moreover, under the Board rules “All relevant information and information calculated to lead to relevant information is discoverable,…” 35 IAC 101.616(a). Illinois EPA claims to have redacted remarks by agencies other than Illinois EPA and U.S. EPA, but the interactions between Illinois EPA and other agencies demonstrate Illinois EPA’s interpretation of its own regulations. In fact, Illinois EPA found other state’s regulatory posture so informative that it briefed them concerning individual post-closure care decisions and then asked them for examples of their own permit decisions. (see e.g., IEPA000052, 55, 56, 57, 58). Also, the claim that producing this information is burdensome does not make sense, considering it has redactions in only about 16 documents. Please provide the documents in an unredacted format.
- IV. Please indicate which Bates numbers are responsive to each request, rather than by title. Each document file is titled by Bates number and we do not know which documents you consider responsive without a Bates reference.
- V. Response 11 – IEPA’s response to document request 11 indicated that the “the following redacted document responsive to Document Request No. 11 has been or will be produced.” However, the provided document which seems to correspond to this request was unredacted. Are other redacted documents forthcoming for this response, or does IEPA consider this response complete? If it is complete, please indicate which Bates numbers are responsive to this request.

I’m happy to discuss this further.

Thanks,
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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From: Kristen Gale

Sent: Wednesday, August 6, 2025 3:15 PM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Cc: Jennifer Nijman <jn@nijmanfranzetti.com>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Thanks for the call today – as discussed – below are my questions and requests to date related to the State's responses to our discovery requests:

- 1) Please provide a privilege log for your responses to document requests no. 7, 8, and 9 and any other place you claimed a privilege.
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We are still reviewing the responses and may have additional requests or comments.

For tomorrow, we agreed to ask for a status with the hearing officer in 60-90 days. Upon reflection, unless you object, I think we should request 90 days. We can report to the hearing officer that we are working through issues related to the written discovery, and would like to hold off on preparing a schedule for depositions.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

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From: Bertsche, Justin <Justin.Bertsche@ilag.gov>

Sent: Wednesday, August 6, 2025 9:18 AM

To: Kristen Gale <kg@nijmanfranzetti.com>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Kristen,

Does 9:30 this morning work for you? If so, can we call you at the number in your email signature?

Thank you,
Justin

From: Kristen Gale <kg@nijmanfranzetti.com>

Sent: Wednesday, August 6, 2025 8:44 AM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: [EXTERNAL] WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Do either of you have time today to talk about the WMIL v. IEPA matter? I'm open between now and noon and 3-5. I'm also open tomorrow morning before our status.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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EXHIBIT G

Craig Thedwall

To: Kristen Gale
Subject: RE: WMIL v. IEPA PCB 25-9/25-10

From: Bertsche, Justin <Justin.Bertsche@ilag.gov>
Sent: Tuesday, December 23, 2025 3:39 PM
To: Kristen Gale <kg@nijmanfranzetti.com>
Cc: Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>
Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Good afternoon Kristen,

Responses to your questions are written below in **red**. My paralegal will serve amended discovery responses and documents on you shortly. Please note that, in addition to other documents, Illinois EPA is producing a newly-bates stamped copy of the document titled USEPA Guidelines for Evaluating Post-Closure Care Period for Hazardous Waste Disposal Facilities under Subtitle C of RCRA. The version previously produced was misnumbered.

Please let me know when we can expect responses to the questions/clarifications we asked on October 29th.

Happy holidays to you!

Best,
Justin

Justin Bertsche, Assistant Attorney General
Environmental Enforcement Bureau
Office of the Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
Justin.Bertsche@ilag.gov
Cell: (773) 505-5308

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From: Kristen Gale <kg@nijmanfranzetti.com>
Sent: Thursday, October 9, 2025 3:56 PM
To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Cc: Jennifer Nijman <jn@nijmanfranzetti.com>; Craig Thedwall <ct@nijmanfranzetti.com>

Subject: [EXTERNAL] RE: WMIL v. IEPA PCB 25-9/25-10

Justin,

Yes, Question I.5 should have read February 2023. Confirmation that that is a typo would be great.

Thanks

Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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From: Bertsche, Justin <Justin.Bertsche@ilag.gov>

Sent: Thursday, October 9, 2025 3:26 PM

To: Kristen Gale <kg@nijmanfranzetti.com>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Cc: Jennifer Nijman <jn@nijmanfranzetti.com>; Craig Thedwall <ct@nijmanfranzetti.com>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Kristen,

Thank you for your message. Nancy and I are working with Illinois EPA to respond to your questions.

One minor clarification. Question I.5 states that “there were two sets of meeting notes dated for the same day in January 2023.” I reviewed the documents we produced and saw two documents with the same title, but those were for February 13, 2023, not January. See IEPA 000049 and IEPA 000050-51. Are those the documents you’re referring to? If so, I suspect Rob Watson didn’t update the header on one of the files, but I can confirm that with Illinois EPA. If there are duplicates from January 2023, can you point me to the correct Bates numbers?

Best,

Justin

From: Kristen Gale <kg@nijmanfranzetti.com>

Sent: Wednesday, October 8, 2025 1:01 PM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Cc: Jennifer Nijman <jn@nijmanfranzetti.com>; Craig Thedwall <ct@nijmanfranzetti.com>

Subject: [EXTERNAL] RE: WMIL v. IEPA PCB 25-9/25-10

Justin and Nancy,

Thanks again for chatting and emailing with me on August 6th. Following up on my April 6, 2025 email, we've gone through the State's responses to WMI's discovery request and have a few questions:

- I. We noticed a few missing documents that were identified in the record or a document, but not included in the documents. Please update the discovery to include the missing documents identified below:
 1. It appears that the documents are almost exclusively from the files of John Roop, and do not include emails, correspondence, or documents from other Agency personnel, including Shawntay Dial, (IEPA000006) who also reviewed the application, and both Rob Watson and Takako Halteman, (IEPA000025-54) who attended Bi-Weekly meetings with U.S. EPA. Please conduct document searches with all relevant IEPA personnel, including the personnel identified herein. As the project manager for the permit review process and lead RCRA permit engineer, Mr. Roop is responsible for, among other things, gathering information from various subdivisions within Illinois EPA, Bureau of Land, such as the Groundwater Unit, the RCRA unit, and the Materials Management and Compliance Section, associated with RCRA permit matters, except for exclusively groundwater related matters. Accordingly, all relevant communications go through Mr. Roop and have already been produced to Petitioner. See R000909-000997. Shawntay Dial is the RCRA Hazardous Waste groundwater reviewer. Her review is limited to the groundwater portion of the permit application submittal and her relevant emails, correspondence and documents are already included in the record. See R000909-000916; R000973-000977; R000988-000992. As the RCRA Unit Manager, Ms. Halteman is responsible for, among other things, reviewing Mr. Roop's work. Ms. Halteman's relevant emails, correspondence, and documents have already been produced to Petitioner. See IEPA000024; IEPA000055-000061. In addition, Petitioner located four sets of meeting notes taken by Ms. Halteman which will be produced to Petitioner. See IEPA 000179-000183. Rob Watson retired prior to Illinois EPA's review of the underlying permit modification requests. All of Mr. Watson's relevant documents have already been produced to Petitioner. See IEPA000025-000054.
 2. Illinois EPA considered Laraway's annual reports in the permit decision, but these annual reports were not included in Illinois EPA's response (IEPA000015). Please provide or indicate in the Record where they are located. The referenced annual reports, such as the "Annual RCRA Leachate Report" and "Annual Facility Report", are already in Petitioner's possession, custody, or control. Such documents are also available through the Illinois EPA's document management software, DocuWare under Laraway RDF's Facility ID No. 1970450002. The hazard waste leachate generation information is available on USEPA's public database RCRAInfo. See also R001029-001066.
 3. Illinois EPA considered "historical records" in the permit decision, but these records were not included in Illinois EPA's response (IEPA000019). Please provide, or please identify the Record location of the "historic records." See Illinois EPA's Response to Question No. I.2.
 4. Illinois EPA's records indicate that that Illinois EPA provided communications to U.S. EPA and Association of State and Territorial Solid Waste Management Officials (ASTSWMO) on October 14, 2022, but Illinois EPA has not provided this communication. (IEPA000044). Please provide this communication as well. See IEPA 000184-000187.

5. Illinois EPA's records indicate that a Bi-Weekly meeting with U.S. EPA occurred on February 27, 2023, but did not include those meeting notes. (IEPA000050). However, we noticed that there were two sets of meeting notes dated for the same day in January 2023. Would you please confirm that the second set of January 2023 notes are the February 2023 notes, or if that's not the case, provide the February 2023 notes? The document header for two meeting notes includes the date February 13, 2023. See IEPA000049 and IEPA000050-51. Illinois EPA looked at the original Word file and found that IEPA000050-51 was saved on 2/27/2023 and the file was named "mtg 230227 PIT PCC wrw notes". Each of these facts suggest that the header was mistakenly left unchanged. In addition, Illinois EPA located four sets of meeting notes taken by Ms. Takako Halteman which will be produced to Petitioner. See IEPA 000179-000183. See also Illinois EPA's Response to Question III, below.
 6. Illinois EPA's records indicate that "USEPA (Mike Pease) provided slides for today's meeting," but Illinois EPA did not provide those slides. (IEPA000053). Please provide the slides that USEPA provided to IEPA for this meeting. Illinois EPA was unable to locate the referenced slides after a diligent search.
 7. Illinois EPA provided a blank permit checklist instead of the requested Laraway RCRA checklists. (IEPA000062). Please provide the completed checklist or confirm that IEPA did not use this checklist. See IEPA 000188-000488.
- II. Privilege Log - as discussed, in August, please provide a privilege log for the withheld documents and any redactions due to a claim of privilege. Also, please confirm that all documents withheld for privilege are included in the log, as each of your responses to the discovery request referred to "the following non-privileged documents" and we are unclear whether this language indicates that privileged documents have been withheld for every request. Illinois Supreme Court Rule 201(n) provides that claims of privilege "shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed." Illinois EPA's responses to Petitioner's Document Request Nos. 1, 7, 8 and 9 satisfy Rule 201(n) because the claims of attorney client privilege are made expressly and exactly and include a description of the information not produced. See Respondent's Amended Response to Petitioner's First Set of Document Requests. Please note that Respondent's Amended Responses include a claim of privilege with respect to Document Request No. 1. Accordingly, no separate "privilege log" will be provided. No other documents have been withheld on the basis of privilege.
- III. Relevancy Claims – many of the documents responding to Request 3 were redacted as over-broad, unduly burdensome, and irrelevant. However, these objections are a bit misplaced. "The scope of information considered relevant can be broad, including both evidence that would be admissible at trial and information leading to discovery of admissible evidence." *People ex rel. Madigan v. Stateline Recycling, LLC*, 2020 IL 124417, ¶32, citing *Monier v. Chamberlain*, 31 Ill. 2d 400, 403 (1964). Moreover, under the Board rules "All relevant information and information calculated to lead to relevant information is discoverable,..." 35 IAC 101.616(a). Illinois EPA claims to have redacted remarks by agencies other than Illinois EPA and U.S. EPA, but the interactions between Illinois EPA and other agencies demonstrate Illinois EPA's interpretation of its own regulations. In fact, Illinois EPA found other state's regulatory posture so informative that it briefed them concerning individual post-closure care decisions and then asked them for examples of their own permit decisions.

(see e.g., IEPA000052, 55, 56, 57, 58). Also, the claim that producing this information is burdensome does not make sense, considering it has redactions in only about 16 documents. Please provide the documents in an unredacted format. The relevant issue in this permit appeal concerns Illinois EPA's authority to issue its Final Decisions. Comments made by other states' agencies are irrelevant to Illinois EPA's authority to issue its Final Decisions. Contrary to Waste Management's assertion that "redactions based on privilege are not proper" (see Kristen Gale's email dated August 6, 2025, below), Waste Management itself has asserted that it will not produce documents "'in their entirety' or 'the entire document' **without regard to relevance...**" See Petitioner's Response to Illinois EPA's Request for Production, General Objection No. 3. In other words, Waste Management agrees with Illinois EPA that withholding portions of documents on relevance grounds is appropriate. The fact that Illinois EPA provided an update to the working group about an entirely separate facility (see IEPA000052) and that Illinois EPA corresponded with other states' regulators (see IEPA000055-000058) has no bearing on Illinois EPA's authority to issue its Final Decisions. Accordingly, Illinois EPA produced all documents responsive to Document Request No. 3 subject to properly redacted irrelevant comments made by other states' agencies. As was noted above, Illinois EPA found four sets of meeting notes taken by Ms. Takako Halteman. Redacted versions of these meeting notes will be produced to Petitioner.

- IV. Please indicate which Bates numbers are responsive to each request, rather than by title. Each document file is titled by Bates number and we do not know which documents you consider responsive without a Bates reference. See Respondent's Amended Response to Petitioner's First Set of Document Requests.
- V. Response 11 – IEPA's response to document request 11 indicated that the "the following redacted document responsive to Document Request No. 11 has been or will be produced." However, the provided document which seems to correspond to this request was unredacted. Are other redacted documents forthcoming for this response, or does IEPA consider this response complete? If it is complete, please indicate which Bates numbers are responsive to this request. Illinois EPA's response stating that "the following redacted document to Document Request No. 11 has been or will be produced" is a typo. This document contains no redactions and was fully and completely produced to Petitioner. The typo has been corrected in Respondent's Amended Responses to Petitioner's First Set of Document Requests.

I'm happy to discuss this further.

Thanks,
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

Electronic Filing: Received, Clerk's Office 08/20/2026

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From: Kristen Gale

Sent: Wednesday, August 6, 2025 3:15 PM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Cc: Jennifer Nijman <jn@nijmanfranzetti.com>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Thanks for the call today – as discussed – below are my questions and requests to date related to the State's responses to our discovery requests:

- 1) Please provide a privilege log for your responses to document requests no. 7, 8, and 9 and any other place you claimed a privilege. **See Illinois EPA's response to Question III, supra.**
- 2) Please explain the redaction described in response to Document Request No. 11 and the basis for the redaction. **See Illinois EPA's response to Question V, supra.**
- 3) Please confirm as you described in our conversation that providing "non-privileged" information in your responses to document requests and answers does not mean that there was privileged information withheld unless it is on the privilege log. **Illinois EPA has not withheld any information or documents except where a claim of privilege is expressly asserted pursuant to Illinois Supreme Court Rule 201(n). See also Illinois EPA's response to Question II, supra.**
- 4) For the documents described in your answers to interrogatories and responses to documents – please update your responses to their proper Record or Bates number pursuant to IL S. Ct. Rule 214. Also, as requested in our requests, please provide the documents as they are stored, which in this case means searchable. **See Respondent's Amended Response to Petitioner's First Set of Document Requests.**
- 5) For document request no. 3, please provide all of the documents without redactions. As discussed, redactions based on relevancy are not proper. In any case, the Agency relied upon State information as part of its decision making process (see R000961-962, R001086-1087) making the documents relevant. Indeed, as another example, the redactions involved Illinois specific sites that the State relied upon in its decision (see e.g. - R000961 and IEPA_000052). Your reliance on Rule 201(c)(3) is improper – that section is for when the burden or expense is outweighs the benefit. Here – you provided 16 documents in response, each only two pages, which does not appear to be a burden to provide. Moreover, under the Board rules "All relevant information and information calculated to lead to relevant information is discoverable,..." 35 IAC 101.616(a). **See Illinois EPA's response to Question III, supra.**

We are still reviewing the responses and may have additional requests or comments.

For tomorrow, we agreed to ask for a status with the hearing officer in 60-90 days. Upon reflection, unless you object, I think we should request 90 days. We can report to the hearing officer that we are working through issues related to the written discovery, and would like to hold off on preparing a schedule for depositions.

Thanks

Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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From: Bertsche, Justin <Justin.Bertsche@ilag.gov>

Sent: Wednesday, August 6, 2025 9:18 AM

To: Kristen Gale <kg@nijmanfranzetti.com>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: RE: WMIL v. IEPA PCB 25-9/25-10

Hi Kristen,

Does 9:30 this morning work for you? If so, can we call you at the number in your email signature?

Thank you,
Justin

From: Kristen Gale <kg@nijmanfranzetti.com>

Sent: Wednesday, August 6, 2025 8:44 AM

To: Bertsche, Justin <Justin.Bertsche@ilag.gov>; Tikalsky, Nancy <Nancy.Tikalsky@ilag.gov>

Subject: [EXTERNAL] WMIL v. IEPA PCB 25-9/25-10

Hi Justin and Nancy:

Do either of you have time today to talk about the WMIL v. IEPA matter? I'm open between now and noon and 3-5. I'm also open tomorrow morning before our status.

Thanks
Kristen

Kristen Laughridge Gale | Nijman Franzetti LLP

T: 312-262-5524

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