

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BFI WASTE SYSTEMS)	
OF NORTH AMERICA, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB No. 24-29
)	(Permit Appeal - RCRA)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

Please take notice that on June 17, 2024, I filed Respondents Interrogatories and Request for Production of Documents, a copy of which are attached and served upon you.

Respectfully Submitted,

BY: /s/ CHRISTOPHER GRANT
Senior Assistant Attorney General
Environmental Bureau
69 W. Washington St., #1800
Chicago, Illinois 60602
(312) 814-5388
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Certificate of Service

I, CHRISTOPHER GRANT, an attorney, do hereby certify that, today, June 17, 2024, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of Respondent's First Set of Interrogatories, Request for Production of Documents, and Notice of Filing.

/s/ CHRISTOPHER GRANT

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
Brad.Halloran@illinois.gov

Mr. Don Brown
Clerk of the Pollution Control Board
Illinois Pollution Control Board
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Mr. Scott B. Sievers
ssievers@bhslaw.com
Counsel for Petitioner

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RESPONDENTS FIRST SET OF INTERROGATORIES

TO PETITIONER

Pursuant to Illinois Supreme Court Rule 213 and 35 Ill. Adm. Code 101.620. Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by. KWAME RAOUL, Attorney General of the State of Illinois, requests that Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA LLC. (“BFI”) respond to the interrogatories below in accordance with the Definitions and Instructions provided. Responses to these interrogatories must be in writing, under oath, and produced to Respondent’s counsel in accordance with the Hearing Officer’s scheduling order, or otherwise as agreed by the parties and the Hearing Officer.

DEFINITIONS

1. “BFI” shall mean Petitioner, and any of its parent entities, subsidiaries, joint venture affiliates, managers, members, representatives, employees, independent contractors, attorneys, agents.

2. “Petition” means the Petition for Review filed by Petitioner with the Board on January 30, 2024.

3. “Communication” includes any conversation, discussion, letter, memorandum, email (including attachments, if any), fax (including cover and transmission confirmation sheets), text message, social media posting or message, meeting, note, or other transfer of information, or request for transfer of information, whether written, oral, or by any other means.

4. “Document” shall have a broad meaning and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, of any agreement; bank record or statement; bill of lading; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; Communication; contract; copy; correspondence; delivery record or receipt; diary; draft; document; electronic communication, including e-mail; electronic data; facsimile; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; permit; photograph; print; purchase order; receipt; record; recording; report; result; routing slip; social media information (including from Facebook, Twitter, Instagram or otherwise); spreadsheet; statement; study; summary, including any memorandum, minute or note record, of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; survey; telegram; telephone log; ticket; travel or expense record; videotape; voucher; worksheet or working paper; writing; and any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of Petitioner.

5. “Identification” or “Identify” means:
 - a. As to an individual, stating his or her:
 - i. full and customarily used names;
 - ii. present or last known business and residence addresses, and applicable telephone numbers;
 - iii. business or profession during the relevant time period;
 - iv. every office, title or position held during the relevant time period; and
 - v. every employer during the relevant time period.
 - b. As to any person other than an individual, stating:
 - i. its legal name and any other name used by it;
 - ii. the form or manner of its organization (e.g. partnership, corporation, etc.);
 - iii. the state of its incorporation (if it is incorporated);
 - iv. and the address of its principal place of business.
 - c. As to a document, stating:

- i. the date of its creation, execution, and receipt;
 - ii. its author or signatory;
 - iii. its addresses and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.);
 - v. the identity of the custodian;
 - vi. the identity of the document; and
 - vii. the present location of the document.
- d. As to any event, incident, conversation, transaction or occurrence, stating:
- i. the date;
 - ii. the place where it took place and the manner of its occurrence;
 - iii. identification of all the participants;

iv. its purpose and subject matter; and

v. a description of what transpired.

6. "Illinois EPA" shall mean the Illinois Environmental Protection Agency.

7. "Person" includes, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

8. "Present" shall mean from the date of this document forward.

9. "Relates to", "related to" or "relating to" means anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically, or factually connected with, proves, disproves, or tends to prove or disprove.

10. "BFI Landfill" or "Landfill" shall mean the BFI Davis Junction Landfill, Phase I unit, located in Ogle County, Illinois

11. All terms not specifically defined herein shall have their logical ordinary meaning unless such terms are defined in the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*, or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

INSTRUCTIONS

A. Please answer these interrogatories in accordance with the Definitions and instructions provided herein.

B. If any information requested in these interrogatories is within the knowledge or custody of a third party, state the identity and location, the last known business and/or home address, and the last known business and/or home telephone numbers of each such third party.

C. In answering these interrogatories, please provide such information as is available to you, not merely information you now have of your own personal knowledge. This means you are to provide information which is in the possession of any of your agents, parent entities, subsidiaries, joint venture affiliates, managers, members, employees, independent contractors, attorneys, investigators, environmental consultants, or other representatives, or which is otherwise subject to your custody or control.

D. If you cannot answer any of the following interrogatories in full after exercising due diligence to secure the full information to do so, please so state and answer to the extent possible, specifying the reason for your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and the source of any further information regarding the unanswered portion, and detailing what you did in attempting to secure the unknown information.

E. If you object to any interrogatory based on a claim of privilege or protection, provide with your responses a statement that describes with particularity the privilege or protection claimed and the bases therefor. If part of your response is withheld on the basis of a claim of privilege or protection, respond to the remainder of the request.

F. Respondent reserves the right to serve supplemental or additional interrogatories.

G. In construing these interrogatories: i) the singular shall include the plural and the plural shall include the singular; and ii) a masculine, feminine or neuter pronoun shall not exclude the other genders.

H. If Petitioner answers an interrogatory by producing documents (*see* Illinois Supreme Court Rule 213(e)), Petitioner shall provide electronic copies of the documents and identify by bates number the documents that it believes are responsive to an interrogatory .

I. Pursuant to Illinois Supreme Court Rule 213(i), this discovery is deemed continuing, necessitating supplemental answers by the Petitioner, or anyone acting on its behalf, when or if they obtain additional information which supplements or alters the answers now provided.

INTERROGATORIES

1. Please identify all Persons answering or supplying information used in answering these interrogatories and, for each Person identified, state what information the Person provided.

2. Please provide the identities and addresses of your witnesses who will testify at trial and provide the following information:

(a) Illinois Supreme Court Rule 213(f)(1) *Lay Witnesses*. Identify the subjects on which the witness will testify.

(b) Illinois Supreme Court Rule 213(f)(2) *Independent Expert Witnesses*. Identify the subjects on which the witness will testify and the opinions the party expects to elicit.

(c) Illinois Supreme Court Rule 213(f)(3) *Controlled Expert Witnesses*. Identify:

- (i) the subject matter on which the witness will testify;
- (ii) the conclusions and opinions of the witness and the bases therefor;
- (iii) the qualifications of the witness; and
- (iv) any reports prepared by the witness about the case.

3. With regard to leachate at the Landfill:

- a. For each year from 2013 to the present, state the amount of leachate generated at the Landfill on an annual basis;
- b. For each year from 2013 to the present, state the amount of leachate removed by Petitioner from the Landfill property;
- c. For each year from 2013 to the present, identify the location to which each shipment of leachate was taken;
- d. For each year from 2013 to the present, state the cost expended by Petitioner for leachate collection at the Landfill, leachate testing and analysis, leachate removal or transportation from the Landfill, leachate treatment prior to discharge or disposal, and leachate discharge and disposal Identify the Identify
With regard to IFI's activities at the Site, identify:

4. Does Petitioner claim that leachate generated at the Landfill complies with the 35

Ill. Adm. Code Part 620 groundwater standards? If so state every fact which supports
Petitioner's belief.

5. State the estimated date on which Petitioner estimates that leachate in the Landfill will penetrate the liner and enter groundwater under or adjacent to the Landfill.

6. Identify all remedial action that would be required to address contamination of groundwater upon discharge of leachate from the Landfill into groundwater.

7. State the cost of closure of the hazardous waste disposal portions of the Landfill by removal of all hazardous waste in accordance with 35 Ill. Adm. Code 724.328.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

ex rel. KWAME RAOUL,

Attorney General of the State of Illinois

By: s/ Christopher Grant
Senior Assistant Attorney General
Environmental Bureau
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(312) 814-5388
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DATE: June 17, 2024

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PROTECTION AGENCY)	
)	
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**RESPONDENT’S FIRST REQUEST FOR PRODUCTION TO
PETITIONER BFI WASTE SYSTEMS OF NORTH AMERICA, LLC**

Pursuant to Illinois Supreme Court Rule 214, Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, (“Illinois EPA”), by KWAME RAOUL, Attorney General of the State of Illinois, hereby serves upon Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC (“BFI”), Respondent’s First Set of Requests for Production (collectively, “Requests,” and individually, “Request”), to be answered in writing, under oath. Consistent with the definitions and instructions provided, the responses to the Requests and the documents and other items requested must be produced to Respondent’s counsel within 28 days of service hereof upon you, or otherwise as agreed by the parties.

INSTRUCTIONS

1. These requests call for all documents that are in Petitioner’s (as defined below) actual or constructive possession, custody or control, or known or available to Petitioner, regardless of whether such documents are possessed directly by Petitioner or by Petitioner’s officers, directors, parent entities, subsidiaries, joint venture affiliates, employees (former and

current), agents, representatives, contractors (independent or otherwise), investigators, consultants, experts, attorneys, successors or assigns, or other representatives, or which are otherwise subject to Petitioner's custody or control.

2. As required by Illinois Supreme Court Rule 214(c), responsive documents must be produced as they are kept in the ordinary course of business.

3. Each Request for documents seeks production of each document in its entirety, without abbreviation, including all attachments or other matters affixed thereto. If any portion of a document is responsive to the Request, produce the entire document.

4. If a document's original form was electronic, it shall be produced electronically, preserving metadata regarding the document (e.g., author; date of creation; last modified date; and location within a storage device's file structure). If a document cannot be produced in electronic format, it must be produced in a hard copy, paper format.

5. Mark each page of every document you produce, whether by paper or electronically, with a consecutive bates number. Place the bates numbers at the lower right-hand corner of each page, but do not place them as to obscure any information on the document or electronically-stored information.

6. For each Request below, identify, by bates range, the documents responsive to the Request.

7. If there are no documents responsive to a Request, please state so in writing.

8. If any document or part thereof is withheld under a claim of privilege, a log is to be provided separately identifying for each withheld document or portion of a document: (a) the type of document being withheld (e.g., letter, memorandum, handwritten notes, etc.); (b) a description of its contents; (c) its author(s); (d) all actual and intended recipients of the document; (e) its date;

and (f) the specific privilege being asserted; all with sufficient particularity so as to allow Respondent, and possibly the Board, to assess the validity of the claim of privilege. If only a portion of a document that is responsive to a Request contains privileged information, provide the portion of the document for which you have no claim of privilege.

9. If you, at any time, had possession or control of any document called for under a Request, and if such document has been lost, destroyed, or is not presently in your possession, custody, or control, you shall submit a written statement that: (a) describes in detail the nature of the document and its contents; (b) identifies the person who prepared the document and its contents; (c) identifies all persons who have seen or had possession of the document; (d) specifies the dates on which the document was prepared, transmitted, or received; (e) specifies the date on which the document was lost, purged, separated, or destroyed, the conditions of and reasons for such purge, separation, or destruction from your possession or control, and the person(s) requesting and performing the purge, separation, or destruction; and (f) identifies all persons with knowledge of any portion of the contents of the document.

10. These Requests are continuing in nature and require supplementation pursuant to Supreme Court Rule 214(d).

11. Respondent reserves the right to serve supplemental or additional sets of Requests for Production.

12. Unless otherwise specified, the time period covered by each Request is the date of December 5, 2014 to the present.

DEFINITIONS

1. "BFI" shall mean Petitioner, and any of its parent entities, subsidiaries, joint venture affiliates, managers, members, representatives, employees, independent contractors, attorneys, agents.

2. “Act” shall mean the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*
3. “Communication” includes any conversation, discussion, letter, memorandum, email (including attachments, if any), fax (including cover and transmission confirmation sheets), text message, social media posting or message, meeting, note, or other transfer of information, or request for transfer of information, whether written, oral, or by any other means.
4. “Petition” means the Petition for Review, PCB No. 24-29, filed on January 30, 2024 with the Illinois Pollution Control Board (“Board”).
5. “Describe” means to depict in written words or give an account of.
6. “Document” shall have a broad meaning and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, of any agreement; bank record or statement; bill of lading; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; Communication; contract; copy; correspondence; delivery record or receipt; diary; draft; document; electronic communication, including e-mail; electronic data; facsimile; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; permit; photograph; print; purchase order; receipt; record; recording; report; result; routing slip; social media information (including from Facebook, Twitter, Instagram or otherwise); spreadsheet; statement; study; summary, including any memorandum, minute or note record, of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; survey; telegram; telephone log; ticket; travel or expense record; videotape; voucher; worksheet or working paper; writing; and any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of Petitioner.
7. “Illinois EPA” or “IEPA” or “Agency” means the Illinois Environmental Protection Agency.
8. “Relating to,” “relates to,” or “related to” means anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically, or factually connected with, proves, disproves, or tends to prove or disprove.

9. "Petitioner" or "Petitioner BFI" means BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, and any of its officers, directors, employees, agents, representatives, successors or assigns, or any other person acting or believed by the Petitioner to have acted on its behalf.

10. "Present" shall mean from the date of this document forward.

11. As used herein, "Site" has the same meaning as defined in BFI's Petition.

12. All terms not specifically defined herein shall have their logical, ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Provide any and all documents which Petitioner intends to use or enter into evidence at trial or in any hearing of this case.

2. Provide any and all documents relating to the amount and composition of leachate produced by the Site from December 4, 2014 to the present.

3. Provide any and all documents and communication relating to testing of the leachate produced by the Site, including the results of any and all tests, from December 4, 2014 to the present.

4. Provide all documents and communications, including bills of lading, relating to the transport of leachate from the Site, including to any treatment centers or publicly owned treatment works.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

By: /s/ Taylor Desgrosseilliers

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Dated: June 17, 2024