

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 30 2005

STATE OF ILLINOIS
Pollution Control Board

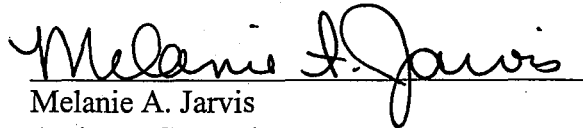
IN THE MATTER OF:

Petition of the Village of Bensenville
for Adjusted Standard from 35 Ill. Adm.
Code 620.410 regarding Chloride and Lead

)
)
) AS 05-02
) (Adjusted Standard)
)

PROOF OF SERVICE

I, Melanie A. Jarvis, an attorney, hereby certify that I caused the attached pleadings to be served upon all parties listed on the attached Notice of Filing via first class U.S. mail from 1021 North Grand Avenue East, Springfield, Illinois 62794-9276.


Melanie A. Jarvis
Assistant Counsel
Division of Legal Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER.

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for Adjusted Standard from 35 Ill. Adm.)
Code 620.410 regarding Chloride and Lead)

AS 05-02
(Adjusted Standard)

NOTICE OF FILING

To: Village of Bensenville
c/o McGuireWoods LLP
David L. Rieser
77 West Wacker Drive, Suite 4100
Chicago, IL 60601

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the
Pollution Control Board the **ILLINOIS ENVIRONMENTAL PROTECTION**
AGENCY'S RESPONSE TO THE SECOND AMENDED PETITION FOR
ADJUSTED STANDARD and an **ENTRY OF APPEARANCE** in the above titled matter.

Copies of these documents are hereby served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Melanie A. Jarvis
Melanie A. Jarvis
Assistant Counsel
Division of Legal Counsel

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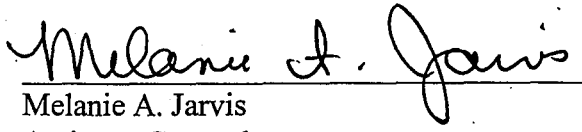
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:

)	
)	
Petition of the Village of Bensenville)	AS 05-02
for Adjusted Standard from 35 Ill. Adm.)	(Adjusted Standard)
Code 620.410 regarding Chloride and Lead)	

ENTRY OF APPEARANCE

I, Melanie A. Jarvis, hereby enter my appearance in the above-entitled action on behalf of the Illinois Environmental Protection Agency.



Melanie A. Jarvis
Assistant Counsel
Division of Legal Counsel

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:

Petition of the Village of Bensenville)	
for Adjusted Standard from 35 Ill. Adm.)	AS 05-02
Code 620.410 regarding Chloride and Lead)	(Adjusted Standard)

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE
TO THE SECOND AMENDED PETITION FOR ADJUSTED STANDARD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, and for its response to the Village of Bensenville ("Petitioner")("Village") Second Amended Petition for an Adjusted Standard would respectfully state:

1. This response is filed pursuant to 35 Ill. Adm. Code 104.416.
2. The Petitioner filed its Petition for an Adjusted Standard with the Illinois Pollution Control Board ("Board") on January 3, 2005.
3. Petitioner seeks an adjusted standard from 35 Ill. Adm. Code Part 620.410 regarding Chloride and Lead.

PRELIMINARY DISCUSSION

The Illinois EPA has the following comments regarding the Petition:

4. In regards to landfill gas, the Illinois EPA has reviewed its records and the landfill gas generation has been investigated four times with no serious problems detected. The landfill was filled with mostly Construction and Demolition debris, so only small amounts of landfill gas would be expected.

5. Section III C. CLOSURE/POST-CLOSURE CARE HISTORY: The Illinois EPA cannot corroborate the statement in last line of the sixth paragraph: "No other constituent concentration in Site groundwater currently exceeds Illinois Class I groundwater quality standards." However, lack corroborations does not alter Illinois EPA recommendation regarding the revised June 3, 2005 Petition.

6. Section III C. CLOSURE/POST-CLOSURE CARE HISTORY: The first line of the last paragraph infers that the IEPA believes, along with the Petitioner, that the sources of chloride and lead are due to "non-landfill sources". The Illinois EPA cannot state that the landfill has been excluded as a source; however, concurs that road salt is a contributing source of chloride.

7. Section IV B. DESCRIPTION OF GROUNDWATER CONDITIONS AND LACK OF ENVIRONMENTAL IMPACT (35 Ill. Adm. Code 104.406(g)). In the third paragraph and footnote 2, the Petitioner bases groundwater flow velocity on a hydraulic conductivity and porosity on generalized text (e.g., Fetter, C., 1980, Applied Hydrogeology). Such general text estimations may differ significantly from actual site conditions and should never be used as a substitute in a technical investigation involving groundwater. However, the lack of site data does not alter Illinois EPA recommendation regarding the revised June 3, 2005 Petition.

8. Section V. DESCRIPTION OF COMPLIANCE EFFORTS AND IMPACT OF EFFORTS TO COMPLY (35 Ill. Adm. Code 104.406(e)). The Illinois EPA cannot corroborate the cost estimates provided by the Petitioner (e.g., no written invoice from Layne GeoConstruction was provided for the cut-off wall; a generalized hydraulic conductivity and porosity was used to derive flow rate in determining drawdown and the number of wells needed, etc.) However, the Illinois EPA

does concur that remediation costs for chloride, as described in the revised June 2, 2005 Petition, would be expensive.

REGULATORY REQUIREMENTS

16. **35 Ill. Adm. Code 104.406(a):** The Petition for an Adjusted Standard contains a statement describing the standard from which an adjusted standard is sought. This statement can be found on page three (3) of the petition.

16. **35 Ill. Adm. Code Section 104.406(b):** The regulation of general applicability, 35 Ill. Adm. Code 620.410 was enacted to implement the requirements of the Illinois Groundwater Protection Act, 415 ILCS 55/1 et seq. This representation is stated on page three (3) of the Petition.

18. **35 Ill. Adm. Code Section 104.406(c):** Petition correctly represents that the regulation of general applicability does not specify a level of justification necessary for an adjusted standard at page three (3).

19. **35 Ill. Adm. Code Section 104.406(d):** As required, pages four (4) through eight (8) of the Petition provide a description of the nature of the petitioner's activity that is the subject of the adjusted standard.

20. **35 Ill. Adm. Code Section 104.406(e):** Pages seventeen (17) through twenty-four (24) of the Petition provide a description of the efforts necessary if the Petitioner were to comply with the regulation of general applicability.

21. **35 Ill. Adm. Code Section 104.406(f):** The Petition provides a narrative description of the proposed adjusted standard and proposed order. This requirement is found on pages twenty-seven (27) through twenty-eight (28) of the Petition. This Section of the Petition is incorrectly marked as satisfying the requirement in subsection (g) of Section 104.406.

22. **35 Ill. Adm. Code Section 104.406(g):** This requirement is fulfilled in the Petition on pages eight (8) through seventeen (17) by stating the quantitative and qualitative impact of the Village's proposed adjusted standard upon the environment.

23. **35 Ill. Adm. Code Section 104.406(h):** Pages twenty-four (24) through twenty-six (26) of the Petition sets forth the Petitioner's required statement of justification for the adjusted standard.

24. **35 Ill. Adm. Code Section 104.406(i):** The Petition, on page twenty-six (26) sets forth whether the proposed adjusted standard is consistent with applicable federal law.

25. **35 Ill. Adm. Code Section 104.406(j):** The Petitioner expressly waives their right to a hearing on page twenty-eight (28). If the Board deems a hearing necessary, the Illinois EPA will be in attendance.

WHEREFORE, the Illinois EPA, recommends that the Illinois Pollution Control Board grant the Petitioner's Petition for an Adjusted Standard for the following reasons:

1. Road salt appears to be a contributing source, if not the sole source, of chloride contamination. Unless road salting ceases, it would be unlikely that any clean-up efforts would significantly alter chloride concentrations downgradient of the landfill.

2. The major aquifer in the area, the Silurian dolomite, exhibits comparable concentrations of chloride as found in the "lower water bearing unit" that is monitored at the site. The two units are in direct hydraulic connection; however, lack of chloride clean-up of the lower water bearing unit would not likely result in a significant change in the overall groundwater quality of the Silurian dolomite.

It is further recommended that the Petitioner record an ELUC to preclude use as earlier suggested by the PCB.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Melanie A. Jarvis
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Assistant Counsel
Division of Legal Counsel

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