

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
JUN 07 2006
STATE OF ILLINOIS
Pollution Control Board

PEORIA DISPOSAL COMPANY,

Petitioner,

v.

PEORIA COUNTY BOARD,

Respondent.

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PCB 06-184


(Pollution Control Facility Siting Appeal)

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE THAT on the 7th day of June, 2006, George Mueller, one of the attorneys for Petitioner, Peoria Disposal Company, filed the original and nine (9) copies of Petitioner's Petition for Review, pursuant to 415 ILCS 5/40.1(a), with the Clerk of the Illinois Pollution Control Board, by hand-delivery.

Respectfully submitted,
PEORIA DISPOSAL COMPANY

BY: 
GEORGE MUELLER,
One of its attorneys

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ENTRY OF APPEARANCE

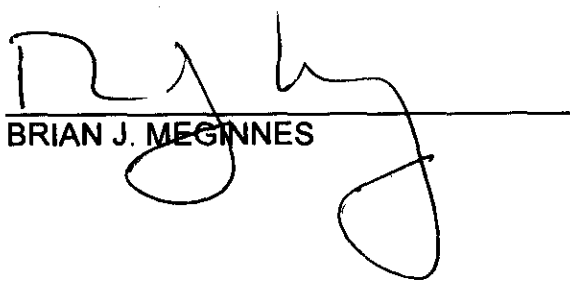
To the Clerk of the Pollution Control Board and all parties of record:

Please enter my appearance as counsel of record in this case for the following:

PEORIA DISPOSAL COMPANY

Dated: June 7, 2006.

Respectfully submitted,


BRIAN J. MEGINNES

Brian J. Meginnes
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602
Telephone: (309) 637-6000
Facsimile: (309) 637-8514
bmeginnes@emrslaw.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEORIA DISPOSAL COMPANY,)
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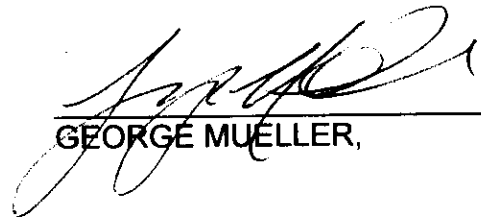
TO: The Clerk of the Pollution Control Board and all parties of record:

Please enter my appearance as counsel of record in this case for the following:

PEORIA DISPOSAL COMPANY

Dated June 7, 2006.

Respectfully submitted,



GEORGE MUELLER,

STATE OF ILLINOIS)
)
COUNTY OF LASALLE)

SS

AFFIDAVIT OF SERVICE


The undersigned, a non-attorney, being first duly sworn upon oath, states that a copy of the Petition for Review of Petitioner, Peoria Disposal Company, was served upon the following persons by enclosing such documents in separate envelopes, addressed as follows, and depositing said envelopes in a U.S. Postal Service mail box at Ottawa, Illinois, on the 7th day of June, 2006, before 5:00 p.m., with all fees thereon fully prepaid and addressed as follows:

Service List

Mr. David Brown
Attorney at Law
Black, Black & Brown
101 S. Main Street
P.O. Box 381
Morton, IL 61550

Mr. David Williams, Chairman
Peoria County Board
Peoria County Courthouse
324 Main Street, Room 502
Peoria, IL 61602

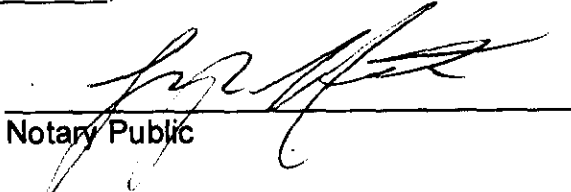
Mr. Kevin Lyons
State's Attorney
Office of the Peoria County State's Attorney
324 Main Street, Room 111
Peoria, IL 61602



Legal Assistant

Subscribed and sworn to before me, a Notary Public, in the County and State as aforesaid, this 7 day of June, 2006.

OFFICIAL SEAL
GEORGE MUELLER
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 08/23/09



Notary Public

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STATE OF ILLINOIS
Pollution Control Board

PEORIA DISPOSAL COMPANY,)
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 Petitioner,)
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 Respondent.)

PCB 06-184
(Pollution Control Facility Siting Appeal)

PETITION FOR REVIEW

NOW COMES Peoria Disposal Company ("Petitioner") by its attorneys, Brian J. Meginnes and George Mueller, pursuant to §40.1(a) of the Environmental Protection Act ("the Act") (415 ILCS 5/40.1(a)) and petitions for review of the action of the Peoria County Board on May 3, 2006, in which it failed to pass a motion to approve Peoria Disposal Company's Application for Site Location Approval of a vertical and horizontal expansion of its existing hazardous waste landfill located in Peoria County, Illinois, with special conditions. In support of its Petition, Peoria Disposal Company states and alleges as follows:

1. That on November 9, 2005 Petitioner filed an Application with the Peoria County Board for site location approval pursuant to §39.2 of the Act of a pollution control facility, namely a vertical and horizontal expansion of Petitioner's hazardous waste landfill located in Peoria County, Illinois (the "Application").

2. That a public hearing was held on the Application commencing on February 21, 2006 during which Petitioner proved that the Application satisfied all nine statutory siting criteria.

3. That on May 3, 2006 the Peoria County Board held a special meeting to consider the Application, and the Peoria County Board at that time failed to pass a motion to approve the Application. No written findings were made, no written decision was issued, and Petitioner has never received any written record or report of the action of the Peoria County Board on May 3, 2006, although a transcript of the meeting itself does exist.

4. That the Peoria County Board or a committee of the same had previously held a meeting on April 6, 2006 for the purported purpose of making a recommendation to approve or deny the Application and adopting findings of fact with respect to the Application. Petitioner cannot determine what if any action was taken on that date as the transcript of that meeting reveals a convoluted pattern of motions and amendments and further amendments, often with no vote on the amendments, and with no ultimate clarity as to what was voted on. The Peoria County Board admits that no recommendation was made in the April 6, 2006 meeting to either approve or deny the Application. Petitioner further takes the position that neither the Peoria County Board, nor any committee thereof, made any legally binding findings on April 6, 2006 with regard to whether the proposed facility was so located, designed and proposed to be operated that the public health, safety and welfare would be protected. No written record of the actions on April 6, 2006 has ever been published or provided to the Petitioner, although a transcript of the meeting itself does exist. Such transcript does not include the findings of fact purportedly made at the April 6, 2006 meeting, but instead demonstrates that, in several key instances, Peoria County Board members did not know or understand what they were voting for or against.

5. Petitioner acknowledges that the Peoria County Board believes it has denied the Application by its action of May 3, 2006. However, no written decision exists, although a transcript of this meeting was posted on the Peoria County Web site on May 12, 2006, more than 180 days after the filing of the Application. Additionally there was a written Agenda for the May 3, 2006 meeting, and that Agenda is accompanied by documents entitled resolutions, agenda briefings and recommended findings of fact. All these documents are file stamped April 27, 2006. The record of the proceedings of May 3, 2006 indicates that these resolutions, including the resolution regarding proposed findings of fact, were not adopted in the form presented. Nonetheless, they represent what Peoria County may well believe to be the required "written decision," and they are therefore attached to this Petition as Petitioner's good faith attempt to comply with the requirement of 35 I.A.C. 107.208(a).

6. Petitioner alleges that, based on the foregoing, the Application should be deemed approved by operation of law for failure to take timely final action as required by Section 39.2(e) of the Act. Without waiving said argument, and in the alternative to said argument, Petitioner asserts that in the event the Pollution Control Board finds that the Peoria County Board did deny the Application, such denial is otherwise defective, unlawful or void for the reasons set forth hereinafter

7. The Hearing on the Petition for Site Location Approval was not conducted in accordance with the requirements of §39.2 of the Act and the action of the Peoria County Board was not made in accordance with the requirements of §39.2 of the Act.

8. The Peoria County Board did not specify reasons for its purported denial of the Application and there was no written decision rendered, contrary to the requirements of 415 ILCS §5/39.2.

9. The proceedings of the Peoria County Board, including the public hearing, post-hearing procedures and the decision making process, as well as the action of the Peoria County Board taken on May 3, 2006, were not fundamentally fair for the following reasons:

A. The Peoria County Board failed to comply with its local pollution control facility siting ordinance and said non-compliance rendered the proceedings fundamentally unfair.

B. The Hearing procedures employed by the Peoria County Board were not fundamentally fair.

C. The post-hearing proceedings employed by the Peoria County Board were not fundamentally fair.

D. The decision making procedures employed by the Peoria County Board were not fundamentally fair.

E. Multiple members of the Peoria County Board were biased against Peoria Disposal Company and prejudged the Application.

F. Multiple members of the Peoria County Board had disqualifying conflicts of interest.

G. The action of the Peoria County Board was not based upon the evidence.

H. The action of the Peoria County Board was based on matters outside the record.

I. The Peoria County Board disregarded the recommendation for approval of its own technical staff and adopted findings which were in direct conflict with the findings of its technical and professional staff.

J. Peoria County Board members did not understand what they were voting on either on April 6, 2006 or on May 3, 2006.

K. Objectors to the Application including, but not limited to, participants Heart of Illinois Sierra Club and Peoria Families Against Toxic Waste engaged in prejudicial ex parte contacts with the Peoria County Board and promoted and advocated prejudicial ex parte contacts by others with the Peoria County Board.

L. The Peoria County Board applied a fundamentally unfair and incorrect burden of proof.

M. The proceedings were otherwise fundamentally unfair.

10. Without waiving the arguments set forth hereinabove, and in the alternative to said arguments, the purported finding of the Peoria County Board that Peoria Disposal Company had not proven siting criteria i, ii and iii was against the

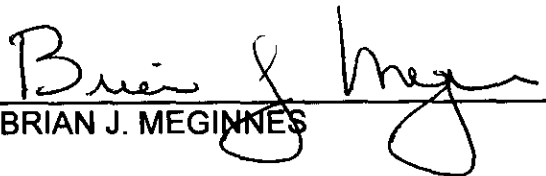
manifest weight of the evidence. Additionally, the purported finding by the Peoria County Board that Peoria Disposal Company had only proven siting criterion v if certain special conditions were imposed, was against the manifest weight of the evidence and was not supported by the evidence.

11. The Peoria County Board made findings which are inconsistent with denial of the Application.


WHEREFORE, Peoria Disposal Company prays that the Peoria Disposal Company's Application for Site Location Approval be deemed approved pursuant to 415 ILCS §5/39.2(e). In the alternative, Peoria Disposal Company prays that the action of the Peoria County Board, failing to approve Peoria Disposal Company's Application for Site Location Approval be reversed or, alternatively, that the same be remanded with instructions to correct fundamental fairness errors including, but not limited to, removal of those Peoria County Board members who had conflicts of interest, were biased or otherwise prejudged the Application from further consideration of the matter.

Respectfully submitted,

PEORIA DISPOSAL COMPANY

BY: 
BRIAN J. MEGINNES

and

By: 
GEORGE MUELLER,
Its attorneys

Brian J. Meginnes
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, Illinois 61602
Telephone: (309) 637-6000
Facsimile: (309) 637-8514

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628 Columbus, Suite 204
Ottawa, IL 61350
Telephone: (815) 431-1500
Facsimile: (815) 431-1501

106-1348



There will be a Special Meeting of the County Board, County of Peoria, on Wednesday, May 3, 2006, at five o'clock p.m. at the Itoo Hall, 4909 W. Farmington Road, Peoria, IL.

JoAnn Thomas
County Clerk

FILED

APR 27 2006

JoANN THOMAS
PEORIA COUNTY CLERK

AGENDA

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

ROLL CALL BY THE CLERK

CITIZENS' REMARKS

(To address the County Board, fill out card and submit to the Chairman)

1. Application from Peoria Disposal Company for local siting approval of a pollution control facility that was filed with the Peoria County Clerk on November 14, 2005.
2. A recommendation from your Peoria County Regional Pollution Control Site Hearing Committee to approve findings of fact concerning Peoria Disposal Company's application for local siting approval of a pollution control facility that was filed with the County Clerk on November 14, 2005.

UNFINISHED BUSINESS

MISCELLANEOUS

ANNOUNCEMENTS

ADJOURNMENT

AGENDA BRIEFING

FILED

APR 27 2006

JOANN THOMAS
PEORIA COUNTY CLERK

COMMITTEE: Peoria County Board
MEETING DATE: May 3, 2006

LINE ITEM: n/a
AMOUNT: n/a

ISSUE:

To make a determination concerning Peoria Disposal Company's application for local siting approval of a pollution control facility.

BACKGROUND:

In November 2005, Peoria Disposal Company submitted an application for local siting approval to expand their current hazardous waste landfill. Section 7.5 of the Peoria County Code identifies the items to be included in the application, addresses administrative processes and responsibilities of staff members, and outlines the time frame for events to occur during the 180 day review period. The County Clerk deemed the application sufficiently complete on November 14, 2005. Highlights of the review process include holding six days of public hearings for the Applicant to present their case in chief as well as to allow opponents to cross-examine witnesses and offer their own testimony and evidence. One day was dedicated to hearing public comments; where 90 people spoke in favor of and against the proposed expansion. The public hearings commenced on February 21, 2006 and concluded on Monday, February 27. Upon conclusion of the public hearing, the County Code identifies that any written comment received by the County Clerk for 30 days shall be made part of record. This window of opportunity ended on March 29. A comprehensive staff report was submitted into the record on March 28 and distributed to Board members as well. This staff report included the findings from County employees and outside consultants hired to assist in the review. Consultants from Patrick Engineering and Alan Environmental; David Brown, special assistant to the State's Attorney's Office; and County employees prepared the report that included recommendations of special conditions. A Supplemental Staff Report addressing materials submitted during the last week of the public comment period was prepared for the reconvened hearing held on April 3, 2006, which allowed members of the County Board the opportunity to ask staff questions about their reports.

One of the last steps in the review process is for the Regional Pollution Control Site Hearing Committee to hold a public review meeting to establish findings of fact and a recommendation concerning the site approval request. The RPCSH Committee met on April 6 and approved findings of fact for each of the nine statutory criteria. The Committee approved findings of fact consistent with denial for Criteria 1, 2, and 3; and approval with special conditions for Criteria 4-9.

During this process, all materials submitted into the record including PDC's application, evidence submitted prior and during the public hearings, transcripts, written public comment, and staff reports were scanned and downloaded onto Peoria County's website to allow the public (both locally and nationally) the opportunity to view materials at their convenience.

RECOMMENDATION:

In the initial Staff Report dated March 27, 2006 and the Supplemental Staff Report dated April 3, Staff's recommendation to the Committee was for approval with special conditions. On April 6, 2006, the Regional Pollution Control Site Hearing Committee recommended approving findings of fact concerning Peoria Disposal Company's application for local siting approval for a pollution control facility consistent with denial.

PREPARED BY: Karen Raithel
DATE: April 26, 2006

DEPARTMENT: Recycling

FILED

APR 27 2006

JOANN THOMAS
PEORIA COUNTY CLERK

AGENDA BRIEFING

COMMITTEE: Peoria County Board
MEETING DATE: May 3, 2006

LINE ITEM: n/a
AMOUNT: n/a

ISSUE:

Approval of Findings of Fact concerning Peoria Disposal Company's application for local siting approval of a pollution control facility.

BACKGROUND:

The Regional Pollution Control Site Hearing Committee met on April 6, 2006 and approved findings of fact for each of the nine statutory criteria. Attached are those Findings of Fact the Committee approved.

On April 6, 2006, the Regional Pollution Control Site Hearing Committee recommended approving findings of fact concerning Peoria Disposal Company's application for local siting approval for a pollution control facility consistent with denial.

RECOMMENDATION:

To approve findings of fact concerning Peoria Disposal Company's application for local siting approval for a pollution control facility.

PREPARED BY: Karen Raithel
DATE: April 26, 2006

DEPARTMENT: Recycling

**ILLINOIS ENVIRONMENTAL PROTECTION ACT 415 ILCS 5/39.2
LOCAL SITING APPROVAL CRITERIA**

- (i) The facility is necessary to accommodate the waste needs of the area it is intended to serve;
- (ii) The facility is designed, located and proposed to be operated such that public health, safety and welfare will be protected;
- (iii) The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
- (iv) The facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed;
- (v) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents;
- (vi) The traffic patterns to or from the facility are designed to minimize the impact on existing traffic flows;
- (vii) If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
- (viii) The facility is consistent with the County Solid Waste Management plan; and
- (ix) If the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

The County Board may also consider the previous operating experience and past record of convictions or admissions of violations of the applicant and any subsidiary or parent corporation in the field of solid waste management when considering criteria (ii) and (v) under the Section. The County Board may also impose conditions on its siting approval.

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RECOMMENDED FINDINGS OF FACT

Criterion 1

The facility is not necessary to accommodate the waste needs of the area it is intended to serve.

- Applicant failed to use the most recent U.S. EPA data on hazardous waste generation;
- U.S. EPA data from 2003, reported in 2005, shows a significant decline in hazardous waste generation rates in the hazardous waste service area;
- During cross-examination by County staff, applicant's expert Smith testified that there was a reduction in hazardous waste generated in the service area from 2001 to 2003;
- Applicant's expert Smith testified that there are a decreasing number of hazardous waste landfills in both the service area and the nation;
- Applicant's employee and expert Ron Edwards is quoted in a newspaper article, included in the public record, as saying that applicant's tipping fees have decreased from an average of \$100 per ton to an average of \$80 to \$85 per ton;
- While not subject to cross-examination, applicant's statement about price is deemed reliable as a statement against interest;
- A decreasing price during a time period when the number of hazardous waste landfills is decreasing suggests decreasing demand for disposal capacity;
- On cross-examination applicant's expert Dr. David Daniel testified that over the last two decades there has been a gradual reduction in the amount of hazardous waste generated;
- Daniel was qualified by applicant as a national expert on hazardous waste and landfill design and technology;
- In her report applicant's expert Smith assumed a constant rate of hazardous waste generation in the service area from 2001 until 2029;
- However, the evidence provided by U.S. EPA data, applicant's public statement about prices and the testimony of the applicant's own experts indicates a reduction in the amount of hazardous waste generated in the service area;
- An annual reduction in hazardous waste generation in the service area of between one and two percent, and therefore consistent with the U.S. EPA data,

would reduce the capacity shortfall applicant's expert Smith estimated in her report for hazardous waste by hundreds of thousands or even millions of tons;

- In estimating disposal capacity applicant's expert Smith assumed that hazardous waste landfills outside the service area would not utilize a greater percentage of their capacity for hazardous waste generated within the service area than they did in 2001, but supplied no evidence or data to support this assumption;
- Applicant's expert Smith failed to fully consider potential substitutes for a new hazardous waste landfill in the service area, including increased recycling of the type of waste codes accepted by applicant, continued waste reduction in the service area and increased disposal of hazardous waste generated in the service area in landfills outside the service area.

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PEORIA COUNTY CLERK

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PEORIA COUNTY CLERK**

Criterion 2

The facility is not so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

- There is evidence that the existing landfill may already be leaking into the aquifer;
- If the existing landfill is already leaking, the facility and the proposed facility which relies upon the existing liners and leachate collection systems is not designed to be protective of the public health, safety and welfare;
- The liner systems presently in use at the facility and proposed to be used in the vertical expansion, by the applicant's own experts' testimony, will fail at some time in the future;
- When those liners fail, leachate will begin migrating through the site, and will eventually reach the groundwater under the site;
- The groundwater aquifer located under the site is, by the applicant's own experts' testimony, hydraulically connected to the Sankoty aquifer which is the primary drinking water aquifer for the area;
- If the drinking water wells for the area are contaminated, the costs of replacing the water supply will be enormous;
- The risk of contaminating of the area's drinking water is not worth the short term economic benefits of allowing the expansion of the landfill;
- The old areas of the site are not constructed to modern regulatory standards and present unreasonable risks to the public;
- The location of a hazardous waste disposal site over the aquifer is against the stated policy of the Peoria County Board;
- The design of trench C-1 is inferior to present "state-of-the-art" technology in the waste field, and allowing the Applicant to remove the existing cover from that trench presents an unreasonable risk to the public and the aquifer under the site;
- The testimony of opponents' expert, Charles Norris, was that fissures in the clayey till, weathering of the till, and continuous sand seams all contribute to the rapid transport of liquids through the glacial till underlying the site, and will, and have, resulted in leachate releases and other contaminants migrating into the groundwater from the glacial till;

- The testimony concerning the organic contaminant found in a shallow monitoring well located in the upper till in the northeast corner of the facility, and the subsequent discovery of the same contaminant in a monitoring well located in the lower sand aquifer in the same area suggests the rapid migration of contaminants at the site, in directly conflict with the testimony of applicant's experts, and in support of Mr. Norris' testimony;
- The increased levels of chlorides in the monitoring well downgradient of trench C-1 also suggest the same conclusions;
- The close proximity of residential neighborhoods to the east of the proposed facilities raises numerous questions concerning whether the location of the proposed facility is protective of the public health, safety and welfare;
- The facility, at its closest location, is a mere 300 feet from the nearest residential property;
- The close proximity of the residences raises serious concerns regarding the potential adverse health effects the proposed landfill may cause to these residents;
- The medical community has spoken out against the proposed expansion due to the potential health risks posed by place large volumes of hazardous waste so close to the residents of the County;
- The Applicant did not present any data, studies, or reports concerning the potential health affects on the citizens, or any risk assessments or epidemiological studies or data concerning the proposed facility;
- Due to the close proximity and the hazardous nature of the materials being disposed of and proposed to be disposed of at the facility, the proposed facility presents an unwarranted risk to the public;
- Opponents primary comments were that the liner systems would fail at some point in the future, and this commentary was largely supported by the testimony of Applicant's witnesses, the major difference being when the liner systems would begin to degrade;
- Applicant and opponents agree that protection of the groundwater is the primary concern at the proposed facility;
- However, there is considerable difference of opinion between the parties as to the magnitude and likelihood of a risk to the groundwater presented by the proposed facility;
- One area of concern for the County Staff was the groundwater impact

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PEORIA COUNTY CLERK

assessment conducted by PDC's experts Dr. Barrows and Ken Liss;

- The type of groundwater modeling done by Dr. Barrows is appropriate for this type of application and for determining future potential impacts to groundwater as required by IEPA for permit applications;
- IEPA requires this type of modeling to determine impacts up to 100 years after closure, but the Applicant did the modeling for 500 years after closure;
- At the public hearing, Dr. Barrows was asked about his modeling and his sensitivity analysis, and he stated in his testimony that the report on his sensitivity analysis was incorrect, and that the most sensitive parameter was flux through the liners as opposed to the hydraulic conductivity of the clayey till underlying the liners;
- After the public hearing, and before the close of the public comment period, Dr. Barrows submitted a supplemental report detailing his corrected findings regarding the sensitivity analysis, but County Staff was not able to independently verify his corrected conclusions;
- Because County Staff was not able to independently verify his corrected conclusions, the County is unwilling to accept the results of the modeling as a method for ruling out the possibility that the C trenches are or have released contaminants at the site;
- Mr. Liss testified for the Applicant that the groundwater monitoring data demonstrates the existing facility is not contributing contamination to the groundwater at the site;
- Mr. Norris disputed that conclusion by pointing to TOX sampling data;
- The County finds the surface impoundment presently located at the facility and used for the collection and storage of leachate is less protective of the public health than other areas of the facility because it is only double lined, and has no effective means of leak detection;
- A number of the opponents and their witnesses call into question the safety of the inactive portions of the site.

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PEORIA COUNTY CLERK

Criterion 3

The proposed facility is not located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.

A. Compatibility

- Surrounding land uses are a mix of open space, agriculture, industrial and residential;
- The testimony and report in the record state the site is separated from surrounding land uses by natural buffers, vegetative screening, and natural topography, but with an expansion the natural buffers are not as effective;
- A significant portion of the residential property is in relative close proximity to the proposed facility;
- A 45 foot increase in vertical height of this landfill will have a noticeable and demonstrable effect on surrounding residential properties;
- The County did note that during the Applicant's presentation certain before and after images of what the proposed facility will look like from various positions in the neighboring residential areas showed that in a few locations the top of the proposed facility will be visible to neighboring residential properties.

B. Property Values

- Numerous individuals commented during the public comment period that they were totally unaware of the facility until the siting process started, but are aware now;
- A 45 foot increase in vertical height of this landfill will have a noticeable visual impact on surrounding residential properties.

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**JOANN THOMAS
PEORIA COUNTY CLERK**

Criterion 4

The proposed facility is located outside the 100-year floodplain.

- Applicant presented expert testimony to this effect;
- County Staff confirmed the location of the facility outside of the 100-year flood plain;
- There was no evidence presented that the facility was located in the 100-year flood plain.

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**JOANN THOMAS
PEORIA COUNTY CLERK**

Criterion 5

The plan of operations for the facility is designed to minimize the danger to the surrounding areas from fire, spills, and other operations accidents, if certain special conditions are met.

- Applicant presented expert reports and testimony concerning its plan of operations and its fire, spill, and operational accident plans;
- The plans set forth details of hours of operation, waste screening and acceptance procedures, waste handling procedures, daily waste placement and cover operations, leachate management, air quality controls, dust managements, mud tracking, noise control, access control, hazard prevent and emergency response plans;
- The testimony and documents submitted by Applicant demonstrate it is fully in compliance with its regulatory requirements for financial assurance for closure and post-closure care, and in fact has more funding in its trust than is presently required by IEPA;
- The testimony and documents submitted both in support of and against the application suggest that long term care and maintenance of the facility is necessary to fully and adequately protect the public health, safety and welfare;
- The County ordinance requires the applicant to present calculations of perpetual care costs for the proposed facility;
- The Applicant presented perpetual care cost estimates during the public hearing, and offered to implement and fund a perpetual care fund for the proposed expansion as well as inactive waste management areas of the larger facility;
- Applicant's plans do not adequately provide for the perpetual care of the facility after the termination of the post-closure care period;
- Applicant's plans do not adequately provide for the proper removal of leachate from the leachate manholes;
- Applicant's plans do not adequately provide for the monitoring of stormwater discharges to make sure stormwater has not come into contact with either the waste and/or leachate;
- Questions and concerns were raised about coordination with fire departments and emergency service providers, and the proximity to schools;
- There was no evidence presented which demonstrated Applicant's plans for fires, spills or accidents were insufficient;

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- There was no evidence presented which demonstrated there was a lack of coordination with local fire departments and emergency service providers;
- There was no evidence presented which demonstrated there was any risk to schools from potential fires, spills, or accidents at the facility;
- The facility is located close to residential houses, and a fire, spill or other operations accidents, could present a danger for residents.

Special Conditions - Criterion 5:

1. Leachate will be automatically removed from all leachate manholes to maintain a minimal risk of leachate on the manhole liner. This is intended to minimize risk of leachate leakage through liner components.
2. The south stormwater detention basin shall be tested on a schedule identical to the existing permit requirements for groundwater monitoring wells and for the following indicator constituents: TDS (total dissolved solids), chloride, calcium, bromide, sulfate, and sodium. Although stormwater typically has less stringent water quality parameters, the records shall be kept and analyzed to verify that trends do not increase to levels of concern that would indicate leachate has been accidentally released to stormwater as long as the active landfill operations occur. PDC shall notify the County of any statistically significant upward trend in stormwater concentrations.
3. Effective upon PDC's receipt of a permit from Illinois EPA to operate the proposed expanded landfill, PDC shall pay additional sums into a perpetual care fund, on at least a quarterly basis equal to \$5.00 per ton of the Expanded Volume of Waste deposited in the PDC Landfill, but if the volume of waste disposed of at the landfill facility in any calendar year is less than 150,000 tons, PDC shall pay into the fund a minimum of \$750,000 for 15 years. Said payments shall be calculated based upon the same information and figures used to calculate the Host Benefit Fee pursuant to Section 9 of the Host Community Agreement, and shall be subject to the same documentation and verification requirement of the Host Benefit Fee. Said Perpetual Care Fund shall be used exclusively for the care and maintenance of the entire PDC site after the period of post-closure care for the expanded landfill has been terminated by IEPA.

Criterion 6

Traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows provided certain special conditions are met.

- Applicant presented expert testimony and a report establishing that the facility will have minimal or no impact on existing traffic flows;
- No expert testimony, report or other evidence was submitted into the record that contradicts the conclusions of Applicant's expert;
- The expanded facility is proposed to be operated in substantially the same fashion as the existing facility, and the existing facility is not causing traffic flow problems according to local and state transportation agencies;
- Some concerns regarding the possibility of transportation related accidents were raised; however, those concerns were better addressed under other criteria;
- Applicant's expert report recommends coordinating efforts with the Illinois Department of Transportation to install advance warning signs along State Route 8 to warn motorists of possible truck turning movements;
- Applicant's report indicates it has designated two (2) main haul routes for trucks coming to and leaving the facility, but does not specify whether or how those routes are communicated to haulers who are not affiliated with Applicant;

Special Conditions - Criterion 6:

1. PDC shall work with IDOT to install an advance warning sign along State Route 8 at this location to alert motorists of possible truck turning movements.
2. PDC shall inform all haulers to and from the facility of the designated truck routes in writing and PDC shall cooperate with local law enforcement agencies to enforce the truck routing requirements on the surrounding roads.

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Criterion 7

The Applicant has an emergency response plan that sufficiently includes notification, containment and evacuation procedures to be used in case of an accidental release at the facility, provided special conditions are met.

- The application includes Spill Prevention Control and Countermeasure Plan, a Stormwater Pollution Prevent Plan, and a RCRA Contingency Plan;
- Applicant presented testimony of its operational expert concerning the foregoing plans;
- There was no evidence or testimony submitted into the record indicating there were no plans or that any plans were lacking;
- Some questions were raised regarding the degree of emergency preparedness and coordination with applicable emergency response agencies, but no facts or evidence was presented to support or validate such questions or concerns;
- While the plans generally meet this criterion, additional measures are necessary to fully coordinate emergency procedures and activities with applicable emergency responders in the County to adequately prepare for a potential emergency;

Special Conditions - Criterion 7:

1. PDC shall annually host a table-top meeting with appropriate emergency responders from Peoria County as approved by the Peoria County Administrator. This may include, but not be limited to, the Peoria County Emergency Services and Disaster Agency, Peoria County Highway Department, Peoria County Sheriff's Office, Limestone Township Fire Protection District, with invitations to attend forwarded to the City of Peoria Fire Department and the Illinois Emergency Management Agency for their input.
2. PDC shall annually have a mock disaster drill, with appropriate emergency responders from Peoria County as approved by the Peoria County Administrator. This may include, but not be limited to, the Peoria County Emergency Services and Disaster Agency, Peoria County Highway Department, Peoria County Sheriff's Office, Limestone Township Fire Protection District, with invitations to attend forwarded to the City of Peoria Fire Department and the Illinois Emergency Management Agency for their input.
3. PDC shall coordinate with E-911 in order to utilize the reverse 911 system and is responsible for contacting 911 if and when an emergency happens.

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Criterion 8

The proposed expansion of the landfill is consistent with the County's integrated solid waste management plan and the 1996 and 2001 five-year plan updates.

- Applicant presented a report and testimony by its expert, Sheryl Smith, who concluded the proposed facility is consistent with the County's solid waste management plan and the updates thereto;
- There was no evidence or testimony that was contrary to the Applicant's expert testimony or report;
- County Staff concluded the proposed facility is consistent with the County's solid waste management plan;
- County Staff is responsible for implementing the County's solid waste management plan, and is in the best position to make a determination as to whether the facility is consistent with the plan or not.

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Criterion 9

The proposed facility is located outside any regulated recharge area.

- Applicant presented the testimony of its expert, George Armstrong, that the proposed facility is not located within a regulated recharge area;
- Comments or concerns were raised concerning the proposed facility being located above an aquifer and that the aquifer is hydraulically connected to a regulated recharge area;
- However, no testimony or evidence was provided that contradicted the Applicant's witness regarding the location of the recharge area and the location of the proposed facility;
- County Staff independently confirmed the proposed facility is not located within the regulated recharge area for the Pleasant Valley Public Water District or any other regulated recharge area.

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PEORIA COUNTY CLERK