

Peoria Disposal Company v. Illinois Environmental Protection Agency ("IEPA")
PCB No. 08-25 (Permit Appeal - Land)

The attached letter was submitted as public comment to the IEPA on March 7, 2007. It does not appear that this letter is included in the Administrative Record in the instant case filed by the IEPA on or about October 19, 2007 (compact disk of record). As a result, the March 7, 2007 letter and attachments referenced therein are being filed as Public Comment in the above matter pending before the Illinois Pollution Control Board.

Thank you.

Peoria Families Against Toxic Waste and
Sierra Club, Heart of Illinois Group

**By, HASSELBERG, WILLIAMS, GREBE,
SNODGRASS & BIRDSALL,**

A handwritten signature in black ink, appearing to read "David L. Wentworth II", with a large, stylized flourish extending to the right.

David L. Wentworth II
One of their attorneys

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March 7, 2007

Illinois Environmental Protection Agency
Government & Community Affairs
Attn: Mara McGinnis
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

RE: Public Comment for Class 3 Permit Modification Request to Develop and Operate
a Residual Waste Landfill (Peoria Disposal Company)

Dear Ms. McGinnis:

Please be advised that we represent Peoria Families Against Toxic Waste and the Sierra Club, Heart of Illinois Group, regarding numerous issues relating to Peoria Disposal Company's PDC No. 1 Landfill. Peoria Disposal Company ("PDC") has now filed a Class 3 Permit Modification Request in which it seeks to rename the PDC No. 1 Landfill as the "PDC No. 1 Residual Waste Landfill" and evade local siting authority for expansion. On behalf of Peoria Families Against Toxic Waste, and the Sierra Club, Heart of Illinois Group, we respectfully request that the modification request be summarily denied by the Agency.

PDC's Class 3 Permit Modification Request encompasses the identical site and facility which PDC proposed to expand during the "Application for Local Siting Approval of a Pollution Control Facility" filed with the Peoria County Board (as the local siting authority) on or about November 9, 2005. Attached hereto are copies of the Application title page, principal executive officer's signature, table of contents and page 1-1 describing the proposed expansion to consist of "a vertical and approximately 8.2 acre horizontal expansion of the existing landfill (see Figure 1-1.) ... provide[ing] an additional 2,471,000 cubic yards of airspace (cyas) or 2,224,000 tons of capacity." The "facility" contemplated by PDC in the Class 3 Permit Modification presently before the Agency was the identical "facility" for which expansion approval was overwhelmingly denied by the Peoria County Board in May 2006. This fact is further borne out by reviewing the transcript of the Class 3 Permit Modification Request PDC Environmental Management Facility public meeting held on Friday, January 26, 2007 in the cramped hallways of PDC Laboratories, Inc., a copy of which is attached. The January 26, 2007 hearing transcript reveals that in PDC's own words, this is the same expansion area proposed in the siting application; the Class 3 Permit

Modification Request is the exact same *permit* request if PDC had won local siting authority from the Peoria County Board (January 26, 2007 transcript pages 9, 53).

During the January 26, 2007 public hearing, PDC representatives also candidly acknowledged that a similar, previous Class 3 modification request which had been made to the Agency had been denied by the Agency (January 26, 2007 transcript, pp. 49-51). PDC was also confronted with the fact that the conditions PDC proposed during the local siting hearing were only added to get its way with the Peoria County Board, not because it was interested in protecting Peoria County citizens (January 26, 2007 transcript, pp. 62-64). Finally, at the hearing, PDC readily acknowledged the truth of one of the main reasons why the Peoria County Board overwhelmingly rejected the local siting expansion application: that the uppermost aquifer, the aquifer of concern, is connected to the San Koty aquifer (January 26, 2007 transcript, p. 74).

PDC asserts, as a part of its Class 3 Permit Modification Request, that the newly named PDC No. 1 Residual Waste Landfill is exempt from local siting requirements pursuant to Section 3.330(a) of the Act because it is the generator of the treatment residue and thereby not a new or existing pollution control facility. In support thereof, PDC relies heavily on the Illinois Supreme Court case of Envirite Corp. v. Illinois Environmental Protection Agency and Peoria Disposal Company, 158 Ill.2d 210, 632 N.E.2d 1035, 198 Ill. Dec. 424 (1994). In Envirite, the question was whether a manufacturing company which produced hazardous waste was a “generator” within the meaning of Section 39(h) of the Act, and thereby subject to and required to obtain specific authorization for that specific hazardous waste stream from the Agency. The hazardous waste in question was received by PDC from the manufacturing company, and then PDC treated the hazardous waste in its waste stabilization facility. Section 39(h) dictated that the “last to treat” the hazardous waste is the “generator” for purposes of Section 39(h) of the Act. PDC had a Section 39(h) authorization from the Agency for residue waste stream from the waste stabilization facility. Therefore, the Illinois Pollution Control Board, and the Illinois Supreme Court, held that PDC was the generator of this specific hazardous waste stream, which PDC then deposited in its landfill. There was no mention in the case that the landfill was a RCRA Part B Permitted landfill.

Whether PDC was a “pollution control facility” was not at issue before either the Illinois Pollution Control Board or the Illinois Supreme Court in deciding the Envirite case. Furthermore, the Envirite matter did not address, in any way, shape or form, whether Section 39(c) of the Act entered into any part of the analysis.

The issue before the Agency regarding the Class 3 Permit Modification Request of PDC hinges upon whether PDC No. 1 Landfill, alone, or the PDC No. 1 Landfill combined with the waste stabilization facility, is a “pollution control facility”. 415 ILCS 5/39(c). Stated differently, because PDC is reaching capacity on its currently permitted facility, the question becomes whether the area sought to be expanded constitutes a “new pollution control facility” within the meaning of Section 3.330(a) of the Act. The analysis is impacted by and the results become particularly telling given the context and timing of the Class 3 Request. Just last year, PDC attempted, and failed, to obtain “local siting approval of a pollution control facility” (PDC’s words, not ours), which was denied. The context is further illuminated by the fact that the Peoria County Board voted 16-0 to seek denial of the Class 3 Permit Modification Request by PDC to preserve the Peoria County

Board's authority to have a voice in local siting expansion applications (See Public Comment filed by Peoria County dated March 2, 2007 attached).

In a very public and transparent way, Sierra Club, Heart of Illinois Group, and Peoria Families Against Toxic Waste have investigated all aspects of the operation of Peoria Disposal Company No. 1 located at 4349 Southport Road in Peoria, Illinois. Our groups are voluntary associations with no profit interest who have expended whatever funds they have been able to raise on legal fees, website fees and expert fees. No compensation is paid to any member of either group, other than reimbursement for actual expenses. The Sierra Club, Heart of Illinois Group, has a membership of approximately 850, and has actively participated in informing the public about the operation of the subject landfill since at least 1980. Peoria Families Against Toxic Waste has a broad based membership, and during the proceedings before the Peoria County Board regarding PDC's application for local siting approval, Peoria Families Against Toxic Waste operated a website known as www.notoxicwaste.org. This site is back on-line to address the issues raised by PDC's filing of the TSCA coordinated approval application, as well as to RCRA permit applications or modifications pending before Illinois EPA.

During the local siting hearing before the Peoria County Board, the www.notoxicwaste.org website contained information regarding the pending application, Peoria County staff reports, as well as reports from our retained experts, Chuck Norris, P.G., and G. Fred Lee, Ph.D., and provided links to the Peoria County website, IEPA website, and U.S. EPA website (regarding ECHO, TRI and other information). During the Peoria County Board proceedings, our combined groups were responsible for the filing of at least six substantive reports regarding the proceedings. These can be found (today) at the following link on the Peoria County Board website, http://www.co.peoria.il.us/display.php?section=county&page=files&newDir=PDC_Application, under the Public Comments Section, where Chuck Norris, G. Fred Lee, PFATW and Sierra Club are referenced. One of them, the Evidentiary Summary, is attached. Furthermore, under the "Other Docs Filed" category, you can view the voluminous nature of documentation filed by our groups with the Peoria County Board before the local siting hearings began. Finally, a view of the public comment postings reveals how the operation of this landfill is in the eye of the public, particularly members of the Peoria medical community. We hereby incorporated all of the above-mentioned documents by reference into this Public Comment as if fully set forth herein.

As you may know, Peoria Disposal Company appealed the denial by the Peoria County Board of its local siting application to the Illinois Pollution Control Board, in Case No. 06-184. In particular, we would like to draw your attention to the motion filed by our groups to file an amicus brief in the appeal. The link to that document is as follows: <http://www.ipcb.state.il.us/documents/dsweb/Get/Document-54745/>. As you can see from this documentation, our groups were the only objectors at the Peoria County proceedings represented by legal counsel, who cross-examined witnesses, who presented affirmative expert evidence and opposition to the application for siting approval, and who filed detailed briefs with the Peoria County Board.

PFATW and HOISC

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Our groups have are actively engaged in educating the public regarding the coordinated effort by Peoria Disposal Company to expand its facility with, or without, local siting authority, and to expand its waste streams. We have issued press releases and postcard mailers to notify the public of the pre-filing notice public meeting required to be held prior to PDC's filing of its Class 3 Permit Modification Request with the Illinois EPA, the Illinois EPA public meeting held February 28, 2007 on the permit renewal, application filed in 1997, and the TSCA Coordinated Approval Application pending with the U.S. EPA.

In short, our groups have become informed about the operation of the hazardous waste landfill in Peoria County and the potential impact on the health and environment of Peoria County citizens. Based on our education and understanding, the modification request should be denied.

In May 2006, the Peoria County Board voted 12-6 against expansion of the PDC No. 1 Hazardous Waste Landfill, finding it was not needed, was unsafe and not protective of the health, safety and welfare of the public, and was too incompatible with the surrounding residential area comprising 53,190 people. The Peoria County Board cast this 12-6 vote in the face of over 30 conditions either voluntarily agreed to by PDC or suggested by Peoria County Staff during the process. Even with these conditions, the Board still overwhelmingly voted NO. Nothing has changed since the May vote, not the design, not the location, not the existence of the San Koty aquifer, not the existence of over 53,000 people living within a 3 mile radius of the site. Nothing, that is, other than PDC's tactics.

PDC now aggressively seeks a Class 3 Permit Modification to render the whole local siting process in Peoria County irrelevant, not just for the past May 2006 vote, but for any future expansions as well. The Illinois EPA would be the sole source of conditions and restrictions on the facility, subject to limited regulatory authority to even impose conditions to be the most protective of the environment. This naturally is intended by PDC to increase the pressure on the Peoria County Board to cave in to the big corporate juggernaut and its legal maneuverings by agreeing to exactly what was rejected in the May vote. PDC's current strategy is to so complicate, so distort, so confuse the process by throwing up new legal impediments that what was clearly rejected before on the basis of solid evidence suddenly appears acceptable and is embraced and approved.

The case, People ex. rel. Madigan v. Dixon-Marquette Cement, Inc., 343 Ill.App.3d 163, 796 N.E.2d 205, 277 Ill. Dec. 490 (2003) involves interpretation of section 21(d)(1) of the Act which has language similar to that relied upon by PDC to exclude itself from local siting. Section 21(d) deals with the prohibition on storage, treating or disposing of waste without a permit, while PDC is trying to modify an existing permit. Subsection (d)(1) provides that "no permit shall be required for (i) any person conducting a waste-storage, waste-treatment, or waste-disposal operation for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generate...." As the case indicates, the Agency, the IPCB and courts have interpreted that exemption from the permit requirement to apply only to "on-site facilities that generate minor amounts of waste that can be disposed of without a significant threat of environmental harm." The case reviews the PCB's rational for limiting the exemption to minor amounts of waste. The reasoning of the Dixon-Marquette court deserves to be set forth, as follows:

To be more precise, section 20 of the Act states this purpose to be prevention of pollution or misuse of land arising out of improper waste disposal. 415 ILCS 5/20 (West 2002). To achieve this end the legislature established a permit system controlling waste-disposal activities. 415 ILCS 5/5, 39 (West 2002). *The intent of section 21(d)(1) of the Act was not to create a legislative loophole or gap in the permit system.* To allow defendants' literal interpretation of section 21(d)(1) would result in operators disposing their waste product or by-product indiscriminately, without regard for the amount or type of waste, and without accountability for the resulting pollution of our air, water, and other re-sources. *This literal interpretation achieves nothing other than circumventing both the permit system and the purposes of the Act.* We therefore reject defendants' interpretation of the exemption.

* * * * *

In our aim to harmonize section 21(d)(1) of the Act with provisions elsewhere in the Act, we construe section 21(d)(1) as providing an *exemption to those on-site facilities that generate minor amounts of waste that can be disposed of without a significant threat of environmental harm.* Accord *Pielet Bros.*, 110 Ill. App. 3d 752, 66 Ill. Dec. 461, 442 N.E.2d 1374; *Reynolds Metals*, 108 Ill. App. 3d 156, 63 Ill. Dec. 900, 438 N.E.2d 1263; *R.E. Joos*, 58 Ill. App. 3d 309, 15 Ill. Dec. 878, 374 N.E.2d 486. *We recognize that the protection of the public interest is the central concern in the storage, treatment, and disposal of waste, regardless of the party generating the waste or the location in which it is being generated.* We believe our decision here achieves a level of unity between the purposes and goals of the Act and the statutory enactment as a whole.

* * * * *

We believe that an amount of cement kiln by-product covering 30 acres and extending 70 feet into the air is not a minor amount of waste that can be disposed of without a significant threat of environmental harm. Moreover, Dixon- Marquette's disposal and storage of its cement kiln dust is a proper subject for a permit evaluation by the entity charged with the duty to prevent the pollution and misuse of land (see 415 ILCS 5/20 (West 2002)), and the section 21(d)(1) exemption is inapplicable to defendants' operation. Plaintiff has therefore pleaded a proper cause of action.

Dixon Marquette (emphasis added).

Like Dixon-Marquette, PDC is attempting to circumvent the pollution prevention provisions of the Act and the permit system. But more than Dixon-Marquette, PDC is also attempting to circumvent the local siting authority granted in Section 39(c) of the Act. The focus should not be

PFATW and HOISC * * * * * **PC #6** * * * * *
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on the identity and location of the waste generator, but on the disposal issues, including capacity and expansion, associated with the waste. For these reasons and the others set forth herein, the modification request should be denied.

Thank you for your consideration.

Very truly yours,

Peoria Families Against Toxic Waste and Sierra Club,
Heart of Illinois Group

**By, HASSELBERG, WILLIAMS, GREBE,
SNODGRASS & BIRDSALL,**

A handwritten signature in black ink, appearing to read "David L. Wentworth II", with a long horizontal flourish extending to the right.

David L. Wentworth II

DLW/smh

Cc: Joyce Blumenshine, HOI Group Sierra Club; Kim Converse, Peoria Families Against Toxic Waste
W:\DLW\Land Use-Zoning\PDC Landfill\PUBLIC COMMENT.doc

Volume **1**

Application For Local Siting Approval Of A Pollution Control Facility

Submitted to:



Peoria County Board
324 Main Street
Peoria, Illinois 61602

Submitted by:



Peoria Disposal Company
4349 West Southport Road
Peoria, Illinois 61615
(309) 676-4893

PDC No. 1 Landfill Expansion Peoria County, Illinois

November 2005

Agent For Service of Notices:

Ron L. Edwards

Vice President

*Application for Siting Approval
PDC No. 1 Landfill Expansion
Peoria County, Illinois*

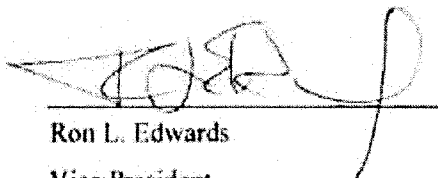
*PDC Project No. 91-0143.02
November 2005*

SIGNATURE

PRINCIPAL EXECUTIVE OFFICER

I hereby swear under oath that, as the principal executive officer of Peoria Disposal Company, I have read this application, I know the contents of this application, and each statement made herein is true in substance and in fact to the best of my knowledge.

For Peoria Disposal Company:



A handwritten signature in black ink, appearing to read 'Ron L. Edwards', is written over a horizontal line. The signature is stylized and somewhat cursive.

Ron L. Edwards

Vice President

Date: November 9, 2005

Peoria Disposal Company

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SECTION 1

CRITERION 1

**"The facility is necessary to accommodate the waste needs
of the area it is intended to serve"**

415 ILCS 5/39.2 (a)(1)

Report on:

**THE EXPANSION OF THE PDC NO. 1 LANDFILL
IS NECESSARY TO ACCOMMODATE THE WASTE NEEDS
OF THE SERVICE AREA**

Prepared for:

Peoria Disposal Company
Peoria County, Illinois

Prepared by:

Golder Associates Inc.
2525 Tiller Lane
Suite 208
Columbus, Ohio 43231-2260

October 2005

1.1 INTRODUCTION

Peoria Disposal Company (PDC) is proposing an expansion of the PDC No.1 Landfill located in unincorporated Peoria County, Illinois. The 32.4 acre PDC No. 1 Landfill-Area C (existing landfill) is a Part B permitted, Resource Conservation and Recovery Act (RCRA) Treatment, Storage and Disposal Facility (TSDF). The existing landfill received its first authorization to operate in 1988 and is expected to reach capacity by the end of 2008. The facility currently receives hazardous waste and non-hazardous industrial waste from Peoria County and other communities throughout Illinois and from other states such as Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin.¹ The PDC No. 1 Landfill Expansion (PDC Expansion) consists of a vertical and approximately 8.2 acre horizontal expansion to the existing landfill. (See Figure 1-1.) The PDC Expansion will provide an additional 2,471,000 cubic yards of airspace (cyas) or 2,224,000 tons of capacity.² The project period evaluated for this report was January 2009 - December 2023. The PDC Expansion intends to provide long term disposal capacity for waste generated in Peoria County and other communities in Illinois, and other states such as Arkansas, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Tennessee and Wisconsin.

In 2004, the existing landfill received approximately 156,000 tons of hazardous and non-hazardous waste. The PDC Expansion expects receipt of an average of 150,000 tons per year (tpy) of waste, consisting of 90,000 tpy of listed hazardous waste, 10,000 tpy of characteristic hazardous waste treated to RCRA Land Disposal Restrictions (LDR) standards prior to disposal, 20,000 tpy of MGP remediation waste requiring disposal in Illinois at a hazardous waste landfill, and 30,000 tpy of non-hazardous process waste.³ The PDC Expansion will not accept municipal solid waste, regulated radioactive waste, potentially infectious medical waste or other materials which may not lawfully be disposed of in RCRA hazardous waste landfills.

¹ PDC No. 1 landfill receipts for the years 1999 - 2004, provided by PDC, May 2005.

² Personal correspondence with PDC Technical Services, May 2005.

³ LDR standards are provided at 40 Code of Federal Regulations Part 268 and 35 Illinois Administrative Code (IAC) Part 728.

***** PC #6 *****



Patrick Urich
County Administrator

County of Peoria
County Administration

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March 2, 2007

Ms. Mara McGinnis
Illinois EPA
1021 North Grand Avenue East
PO Box 19276
Springfield IL 62794-9276

Re: Public Comment for Peoria Disposal Company Permit Modification Request

Dear Ms. McGinnis:

The Peoria County Board unanimously passed a resolution at their February 8, 2007 meeting to voice its opposition to Peoria Disposal Company's permit modification submitted to IEPA on January 5, 2007. Enclosed is a copy of the resolution that outlines the Board's position to oppose the request.

During the landfill application review process, a number of special conditions were proposed by County Board and staff as well as PDC upon approval of the application. Peoria County feels strongly that the imposition of these special conditions is the most protective of the health, welfare, and safety of the residents of Peoria County. Staff believes that in the absence of these special conditions, the County could not support the approval of PDC's siting application as filed on November 14, 2005. The list of 31 special conditions is also attached.

Sincerely,

Patrick Urich
County Administrator

enclosures: Resolution and Special Conditions

TO THE HONORABLE COUNTY BOARD)
)
COUNTY OF PEORIA, ILLINOIS)

Your Health and Environmental Issues Committee does hereby recommend passage of the following Resolution:

RE: Peoria Disposal Company Class 3 permit modification

RESOLUTION

WHEREAS, Peoria Disposal Company has applied for a Class 3 permit modification to allow their landfill in Peoria County to continue operation without the siting approval of the Peoria County Board; and

WHEREAS, the Peoria County Board has previously denied siting approval for a proposed extension of Peoria Disposal Company's Peoria County landfill facility; and

WHEREAS, Peoria Disposal Company's application for a Class 3 permit modification is identical to the application the Peoria County Board denied, except that the proposed modification would only apply to roughly 60% of their current waste streams; and

WHEREAS, Peoria Disposal Company's application for a Class 3 permit modification does not include various conditions discussed during the proceedings before the Peoria County Board and its subsidiary bodies; and

WHEREAS, the Illinois Environmental Protection Agency is currently accepting public comment on Peoria Disposal Company's application for a Class 3 permit modification.

NOW THEREFORE BE IT RESOLVED, that the Peoria County Board is opposed to Peoria Disposal Company's pending application for a Class 3 permit modification because granting of the application would deprive Peoria County of local siting authority and would not provide appropriate special conditions to protect the interests of Peoria County and its citizens. The County Administrator is directed to communicate to the IEPA that the County opposes action that deprives Peoria County of authority and prevents Peoria County from imposing conditions deemed appropriate by the Peoria County Board.

RESPECTFULLY SUBMITTED,
HEALTH AND ENVIRONMENTAL ISSUES COMMITTEE

Date: 1/31/2007	Yes Votes	No Votes
Lynn Scott Pearson, Chairman	X	
Patricia Hidden, Vice Chairman	X	
Bonnie J. Hester	X	
Carol Trumpe	Absent	
Phillip Salzer	x	
Vote Totals:	4	0
Recording Secretary: Patricia Sims		
Resolution Passed		

FEBRUARY 8, 2007
APPROVED BY A ROLL CALL VOTE
OF 16 AYES

AGENDA BRIEFING

COMMITTEE: Health & Environmental Issues **LINE ITEM:** n/a
MEETING DATE: January 31, 2007 @ 3 p.m. **AMOUNT:**

ISSUE:

County Board comments pertaining to Peoria Disposal Company's request for an IEPA permit modification.

BACKGROUND:

On January 5, 2007, Peoria Disposal Company submitted to IEPA a Class 3 permit modification, which would allow for the continuation of business without local siting permission from the county. A Class 3 permit modification is defined as a substantial change in the existing permit; examples include expansion, construction or a new method of treatment.

PDC's primary argument is they are generators of waste and fall under the exemption of a pollution control facility, i.e. landfill. This definition states that sites conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled, or operated by such person, or when such wastes are transported within or between sites or facilities own, controlled or operated by such person. (451 ILCS 5/3.330(a)(3).

Supplementing their argument, Brian Meginness stated that decisions by the Illinois Supreme Court and Illinois Pollution Control Board identified PDC as the generator of waste.

The main difference between current operations and those requested in the permit modification is PDC would not be allowed to accept direct disposal of hazardous waste or special waste. Only waste from their on-site treatment facility would be eligible for disposal. PDC estimates that only 60% (about 80,000 tons/year) of the current intake comes through their treatment facility.

PDC stated that the permit modification request is the same application submitted to Peoria County for local siting review in November 2005. In summary, PDC would seek to expand their facility vertically by 45 feet, including expansion over cell C-1, and horizontally by 8.2 acres. The permit modification PDC applied for in January 2007 is the same permit modification submitted to IEPA in 2006. IEPA denied PDC their request for not having a pre-application meeting. PDC fulfilled this requirement with a hearing at PDC Labs on Friday, January 26, 2007.

Next steps in permit modification request:

1. Public comment period open for 60 days from public notice (1/5/07 - 3/5/07)
2. IEPA may deny request, which PDC can appeal to the IPCB, or issue a draft permit
3. If IEPA issues a draft permit: requires a public notice, hearing, and a 30 day public comment session
4. Decision by IEPA to approve or deny application.

Staff Recommendation:

PDC's course of action circumvents local siting authority, disregards the Board's decision denying their application, and lacks special conditions which lead staff to recommend submitting a letter to IEPA opposing PDC's permit modification.

Committee Action: Approved on 1-31-2007

PREPARED BY: Karen Raitchel
DATE: January 26, 2007

DEPARTMENT: Recycling & Resource Conservation

FILED

FEB - 5 2007

R. STEVE SONNEMAKER
PEORIA COUNTY CLERK

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Special Conditions

The following is a list of special conditions to Peoria Disposal Company's Application for Local Siting Authority for a Pollution Control Site. These special conditions have been proposed or recommended by: Staff as documented in the initial Staff Report and the Supplemental Staff Report; Peoria Disposal Company (Applicant) during the public hearings; and the Regional Pollution Control Site Hearing Committee from April 6, 2006. The County Board may also impose any special conditions to their decision.

1. **No Expansion over Trench C-1**

(Staff Report, 3/27/06)

There shall be no vertical expansion over trench C-1 unless PDC shall install an intermediate composite liner and leachate collection system over C-1 at or near the existing cap elevation to effectively minimize leachate from reaching the bottom of Trench C-1.

2. **Surface Impoundment**

(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)

PDC shall submit the permit modification within 90 days of siting approval to replace the surface impoundment with additional storage tanks for management of all leachate from PDC No. 1.

3. **Environmental Monitoring**

(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)

In addition to its existing groundwater monitoring program, PDC shall implement an ambient air monitoring program. The County shall be permitted to obtain samples from the ambient air monitoring equipment, the groundwater monitoring systems, and stormwater collected in the stormwater outfalls.

4. **Leachate Collection Sumps**

(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)

PDC will install additional secondary containment in the existing primary leachate collection sump manholes as part of the design and construction of the expanded landfill upon receiving approval from the Illinois EPA.

5. **C-1 Sump Manhole Retrofit**

(Staff Report, 3/27/06)

The retrofit design referred by Mr. Meginnes shall be included in the permit application for the expansion permit and the C-1 sump manholes shall be retrofitted if the vertical expansion is approved.

6. **Retain Low Permeability Material Over Capped Portions of Cell C-2**

(Staff Report, 3/27/06)

PDC shall leave in place the low permeability materials over portion of cell C-2 that is already capped.

7. **Alternative Manhole Retrofit**
(Staff Report, 3/27/06)
PDC shall include in its permit application to the IEPA an alternative retrofit design for manhole sumps for all other trenches that have manhole penetrations.

8. **Intermediate Liner**
(Staff Report, 3/27/06)
PDC shall either utilize the existing cap (HDPE geomembrane) as an intermediate liner if analyses show that it will function properly relating to its geotechnical and drainage characteristics, or install a separate intermittent liner at or near the existing cap elevation to effectively minimize leachate from reaching the bottom of Trench C-1.

9. **Ambient Air Monitoring**
(Staff Report, 3/27/06 and Supplemental Staff Report, 4/3/06)
PDC shall communicate all past measured methane concentrations and pressures to the IEPA during the permitting process in order for the IEPA to determine whether PDC shall design and install a system to manage methane vapors at the facility. This also requires PDC to submit to the County, for review and approval, a plan for ambient air monitoring that would provide, at a minimum, for the monitoring at such times and under such conditions as would be expected to create the greatest potential for detection of airborne releases from the facility.

10. **Methane Migration Planning**
(Staff Report, 3/27/06)
Although methane gas pressures are minimal in the landfill, Staff believes that PDC should include the potential of methane migration to sump pits and other confined areas of the landfill in its health and safety program and contingency plan.

11. **Additional Groundwater Monitoring Wells**
(Staff Report, 3/27/06)
Three (3) additional groundwater monitoring wells shall be installed downgradient from Trench C along the compliance boundary. The additional wells shall be located between existing monitoring wells R138 and R113; R113 and R137; and G136 and R137. The wells shall be screened across the top of the water table in the sand aquifer. The monitoring well screens and riser shall be constructed of materials that do not contain galvanized or stainless steel 10.

12. **Construction Quality Assurance (CQA) Recommendations**
(Staff Report, 3/27/06)
PDC shall follow and implement the CQA recommendations.

13. **Leachate Collection System Inspections**
(Staff Report, 3/27/06)
PDC shall inspect the leachate collection systems at the PDC Landfill throughout

the landfill operating period.

14. **Sediment Basin Energy Dissipators**
(Staff Report, 3/27/06)
PDC shall construct energy dissipators at the stormwater discharge points into the sediment basin.
15. **Capacity Guarantee for Peoria County Generators**
(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)
Until June 1, 2021, PDC agrees to provide disposal capacity at the PDC #1 Landfill for waste generators located in Peoria County for all Hazardous Waste, MGP Remediation Waste and Nonhazardous Process Waste which is estimated to be generated by industry located within Peoria County's boundaries.
16. **Additional Expansions Prohibited**
(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)
PDC shall not seek to expand the PDC Landfill vertically or horizontally again.
17. **Minimize Visual Impact - Screening Berm**
(Staff Report, 3/27/06)
In order to address visual and noise concerns for residences to the east of the proposed facility, the development of the eastern portion of the landfill shall be built in such a manner that visual barrier berms shall be placed and vegetated to minimize view of the landfill operations and to assist in minimizing possible noise from reaching residences to the east. The County Staff shall be given the right to approve the berm and barrier design prior to the design being submitted to IEPA for a permit.
18. **Leachate Removal from Sumps**
(Staff Report, 3/27/06)
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.
19. **Stormwater Detention Basin Testing**
(Staff Report, 3/27/06)
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. PDC shall notify the County of any statistically significant upward trend in stormwater concentrations.
20. **Perpetual Care Fund**
(Staff Report, 3/27/06; Reg. Pollution Control Site Hearing Cmte, 4/6/06)
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. 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.

21. Minimum Annual Contribution to Perpetual Care Fund

(Supplemental Staff Report, 4/3/06)

The issue of PDC not disposing of the full 150,000 tons in a year or the full 2.2 million tons during the course of any approved expansion raised the concern about proper funding of the Perpetual Care Fund. As a result, the language proposed for the perpetual care fund be modified so as to require PDC to contribute to the fund with a minimum of \$750,000 per year for fifteen (15) years.

22. Additional \$1 Million Post Closure Trust Fund Contribution

(Supplemental Staff Report, 4/3/06)

PDC shall, within ninety (90) days of receipt of final, non-appealable local siting approval, deposit an additional \$1 million into its financial assurance trust fund for the facility. The \$1 million, and the earnings thereon, shall be in addition to any and all other funds which IEPA may require pursuant to applicable financial assurance requirements.

23. Signage

(Staff Report, 3/27/06)

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.

24. Designated Truck Route Notification

(Staff Report, 3/27/06)

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.

25. Annual Emergency Planning Exercise

(Staff Report, 3/27/06)

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.

26. Annual Mock Disaster Drill

(Reg. Pollution Control Site Hearing Cmte, 4/6/06)

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.

27. Call Back System

(Reg. Pollution Control Site Hearing Cmte, 4/6/06)

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.

28. Waste Review Committee

(Supplemental Staff Report, 4/3/06)

A review Committee shall be established by the County Board, which shall consist of seven (7) members. The Company shall not accept any new waste codes at the Facility unless said new waste code has previously been approved by the Waste Review Committee established herein. The recommendation shall go to the County Board, and the Board shall act on the recommendation at the next regularly scheduled Board meeting more than five (5) days after receipt of the recommendation.

29. Restrictions on Transfer

(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)

No transfer of a controlling interest in the ownership of the PDC landfill may be made without the prior written approval of the Peoria County Board.

30. No Rail Line Spurs

(Applicant Exhibit A-3, 2/21/06; Staff Report, 3/27/06)

PDC shall not construct any rail line spurs from the rail lines adjoining PDC's real property to serve the PDC Landfill.

31. County Involvement in Permitting Process

(Staff Report, 3/27/06)

Peoria County, and its consultants, shall have the right to be involved in the initial permitting for the horizontal and vertical expansion of the PDC Landfill.