

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APR 25 2008

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)	AS 08- <u>10</u>
PETITION OF PEORIA DISPOSAL COMPANY)	(Adjusted Standard – Land)
)	(RCRA Delisting)

STATE OF ILLINOIS
Pollution Control Board

APPLICATION FOR NON-DISCLOSURE

NOW COMES Peoria Disposal Company (“PDC”), by its attorneys, Elias, Meginnis, Riffle & Seghetti, P.C. and Brown, Hay & Stephens, LLP, and moves the Illinois Pollution Control Board (the “Board”) to allow the designation of certain portions of Appendix B and Appendix F to the Technical Support Document attached as Attachment 2 to the RCRA Delisting Adjusted Standard Petition (the “Petition”) filed in the above-captioned matter, to be designated “Non-Disclosable Information” pursuant to 35 Ill. Adm. Code Part 130 and the Illinois Environmental Protection Act.

Appendix B

1. PDC requests that the Board designate Appendix B, contained in the Technical Support Document that is Attachment 2 to the Petition, “Non-Disclosable Information” pursuant to 35 Ill. Adm. Code Part 130 and the Illinois Environmental Protection Act.

2. PDC has filed a single un-redacted copy of Appendix B with the Clerk pursuant to 35 Ill. Adm. Code §130.404(a)(1). Appendix B has been marked “Non-Disclosable Information” in red ink pursuant to 35 Ill. Adm. Code §§130.302 and 130.404, and the information contained therein is hereinafter referred to as the “Appendix B Confidential Information.”

3. A second version of Appendix B has been filed with the Clerk with the Appendix B Confidential Information redacted pursuant to 35 Ill. Adm. Code §130.404(c)(4).

4. The Appendix B Confidential Information constitutes “information concerning secret manufacturing processes or confidential data submitted by any person under the Act” as stated in the definition of Non-Disclosable Information in 35 Ill. Adm. Code §101.202.

5. The Appendix B Confidential Information contains confidential information submitted by PDC regarding its customers. The Appendix B Confidential Information consists of laboratory analytical reports for the untreated electric arc furnace dust, identified by steel mill. PDC is prohibited by contracts with its customers from disclosing such information.

6. There are four (4) parties familiar with the Appendix B Confidential Information, in addition to the attorneys preparing this Application. These parties are as follows:

- A. the Project Manager, Inorganics Department Supervisor, analysts and certain clerical staff of PDC Laboratories, Inc.;
- B. the consultant chemist who is also the technology owner, and is bound by a confidentiality agreement;
- C. the Facility Director of the PDC No. 1 Facility, which includes the waste stabilization facility, who is bound by a confidentiality agreement; and
- D. the Project Manager, Staff Engineer, and a clerical employee of RMT, Inc., the outside consultant that performed the sampling and analysis required for the Petition and developed the Technical Support Document, including Appendix B (RMT, Inc. is bound by a confidentiality agreement).

7. The Appendix B Confidential Information has been protected from disclosure since its origination during the period of December, 2007, through January, 2008.

Appendix F

8. PDC requests that the Board designate certain portions of Appendix F, contained in the Technical Support Document that is Attachment 2 to the Petition, “Non-Disclosable Information” pursuant to 35 Ill. Adm. Code Part 130 and the Illinois Environmental Protection Act.

9. PDC has filed a single un-redacted copy of Appendix F with the Clerk pursuant to 35 Ill. Adm. Code §130.404(a)(1). The relevant portions of this version of Appendix F have been marked “Non-Disclosable Information” in red ink pursuant to 35 Ill. Adm. Code §§130.302 and 130.404, and are hereinafter referred to as the “Appendix F Confidential Information.”

10. A second version of Appendix F has been filed with the Clerk with the Appendix F Confidential Information redacted pursuant to 35 Ill. Adm. Code §130.404(c)(4).

11. The Appendix F Confidential Information constitutes “information concerning secret manufacturing processes or confidential data submitted by any person under the Act” as stated in the definition of Non-Disclosable Information in 35 Ill. Adm. Code §101.202.

12. The Appendix F Confidential Information contains the confidential manufacturing and industrial processes whereby PDC treats electric arc furnace dust in its waste stabilization facility, in particular, the specific chemicals used and the amounts of same. It is the treatment residue from these processes for which an adjusted standard is sought in the Petition. PDC hired a consultant chemist specifically to design these processes (the technology owner), and bound him with a confidentiality agreement. The Appendix F Confidential Information, if available to

PDC's competitors, would unfairly give the competitors the benefit of PDC's research and development.

13. There are four (4) people familiar with the Appendix F Confidential Information, in addition to the attorneys preparing this Application. These people are as follows:

- A. the consultant chemist who is also the technology owner, and is bound by a confidentiality agreement;
- B. the Facility Director of the PDC No. 1 Facility, which includes the waste stabilization facility, who is bound by a confidentiality agreement;
- C. the Vice President of Engineering and Consulting Services, an engineer employed by an affiliate of PDC, PDC Technical Services, Inc., who is bound by a confidentiality agreement; and
- D. the Project Manager of the outside consultant hired to perform the testing required for the Petition, who also prepared the Technical Support Document, including Appendix F, and is bound by a confidentiality agreement.

14. The Appendix F Confidential Information has been protected from disclosure, except as provided by a mutual non-disclosure agreement, since it was first disclosed to PDC in November 2007 by the consultant chemist (the technology owner) retained by PDC.

Affidavit and Waiver of Decision Deadline

15. An affidavit verifying the facts set forth herein is attached herewith as Exhibit A.

16. Pursuant to 35 Ill. Adm. Code §§130.404 and 130.204, PDC hereby waives the applicable decision deadline for a period equal to the period by which the decision on the

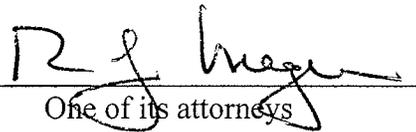
underlying proceeding or matter is delayed due to any trade secret justification and determination process plus 45 days.

WHEREFORE, PDC respectfully requests that the Board designate the Appendix B Confidential Information and the Appendix F Confidential Information as "Non-Disclosable Information" pursuant to 35 Ill. Adm. Code Part 130 and the Illinois Environmental Protection Act, and grant PDC such other and further relief as is deemed appropriate under the circumstances.

Dated: April 16, 2008

Respectfully submitted,

PEORIA DISPOSAL COMPANY,
Petitioner

By: 
One of its attorneys

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EXHIBIT A

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD) PETITION OF PEORIA DISPOSAL COMPANY))))	AS 08-_____ (Adjusted Standard – Land) (RCRA Delisting)
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AFFIDAVIT
In Support of Application for Non-Disclosure

STATE OF ILLINOIS)	
)	ss.
COUNTY OF PEORIA)	

Ron Welk, having first been duly sworn upon his oath, deposes and states as follows:

1. My name is Ron Welk. I am an adult and I am competent to testify to the matters set forth herein.

2. I am Facility Director of the PDC No. 1 Facility, owned and operated by Peoria Disposal Company (“PDC”).

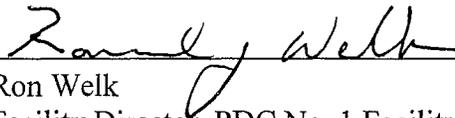
3. In my role as Facility Director of the PDC No. 1 Facility, I have had occasion to review the facts cited in the Application for Non-Disclosure, to be filed in the above-captioned matter.

4. The facts cited in the Application for Non-Disclosure are within my knowledge and operational control as Facility Director of the PDC No. 1 Facility.

5. The facts cited in the Application for Non-Disclosure, to be filed in the above-captioned matter, are true and correct to the best of my knowledge as Facility Director of the PDC No. 1 Facility.

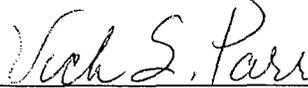
6. If called upon to testify in this matter, I could competently testify to the facts stated herein.

FURTHER AFFIANT SAYETH NOT.



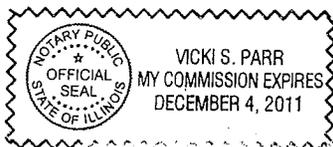
Ron Welk
Facility Director, PDC No. 1 Facility

Subscribed and sworn to before me
this 16th day of April, 2008.



Notary Public

908-0195



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)
PETITION OF PEORIA DISPOSAL COMPANY)
)

RECEIVED
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APR 25 2008
STATE OF ILLINOIS
Pollution Control Board
AS 08-10
(Adjusted Standard)
(RCRA Delisting)

AFFIDAVIT OF FILING BY HAND DELIVERY and
SERVICE BY U.S. MAIL, FIRST CLASS

The undersigned attorney hereby certifies that she has caused to be filed and served the following documents in the above-captioned matter in accordance with the Illinois Environmental Protection Act and regulations, by causing the original of each document (except as otherwise noted) to be delivered by hand to the Clerk of the Illinois Pollution Control Board on the 25th day of April, 2008:

- a) Application for Non-Disclosure (pursuant to 35 Ill. Adm. Code §130.404(a)(2));
- b) a single un-redacted copy of the materials subject to the Application for Non-Disclosure (pursuant to 35 Ill. Adm. Code §130.404(a)(1));
- c) a single redacted copy of the materials subject to the Application for Non-Disclosure (pursuant to 35 Ill. Adm. Code §130.404(c)(4)); and
- d) an original and nine copies of this Affidavit of Filing and Service relating to the foregoing.

One copy of each of the Application and one copy of this Affidavit of Filing and Service were served by placing same in the U.S. Mail, First Class postage prepaid, addressed as follows:

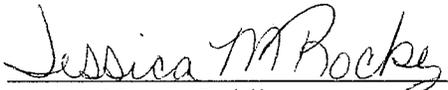
United States Environmental Protection Agency
Office of Solid Waste and Emergency Response
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

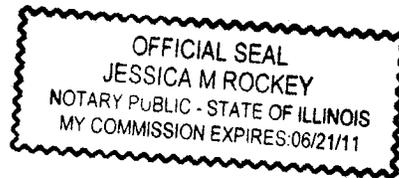
United States Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276


Janaki Nair

Subscribed and sworn to before me
this 22nd day of April, 2008


Notary Public



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