

STATE OF ILLINOIS
POLLUTION CONTROL BOARD
JAMES R. THOMPSON CENTER
100 W. RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

RECEIVED
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FEB 15 2012
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

Anielle Lipe)
Nykole Gillette)
Complainants)
v.) PCB No. 12-95
IEPA (Bureau of Air, Permit Section))
Respondent)

ORIGINAL
RETURN TO CLERK'S OFFICE

RESPONSE TO MOTION TO DISMISS COMPLAINT

(PROOF OF SERVICE)

The undersigned hereby files a response.


Anielle Lipe


Nykole Gillette

Under penalties of perjury, we the undersigned certify as true that we served the foregoing upon:

Illinois Environmental Protection Agency
Bureau of Air, Permit Section
1021 North Grand Avenue East
Springfield, IL 62794-9506

by placing a true and correct copy of same into a properly addressed, Priority Mail envelope with sufficient postage, and mailing it at the cashier window at the Cardiss Collins Postal Store, 433 W. Harrison St. FI Lobby, Chicago, IL before 11:58 P.M. on February 13, 2012.

Complainant (s)  Date 2/13/12

Complainant (s)  Date 2/13/12

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)	
IEPA (Bureau of Air, Permit Section))	
Respondent)	

RESPONSE TO MOTION TO DISMISS COMPLAINT

- Your name, street address,
county, state:

Anielle Lipe
22123 Meadow Lake Place
Richton Park, IL 60471
Cook County
Phone: 630-235-9821

Nykole Gillette
22232 Scott Drive
Richton Park, IL 60471
- Place where you can be
contacted during normal
business hours (if different
from above):

N/A
- Name and address of respondent

Illinois Environmental Protection Agency
Bureau of Air, Permit Section
1021 North Grand Avenue East
Springfield, IL 62794-9506

EXHIBIT**IDENTIFICATION**

- B. AIR QUALITY IMPACTS FOR TOUGH CUTS CONCRETE SERVICES, INC. NONMETALLIC MINERAL CRUSHING AND PROCESSING EQUIPMENT AT SEXTON DEVELOPMENT that was prepared by Derenzo and Associates, Inc. Environmental Consultants for the Village of Richton Park, IL dated July 18, 2011
- Y1. Anielle Lipe's envelope from the Illinois Attorney General's Office
- Z1. Nykole Gillette's envelope from the Illinois Attorney General's Office
- B2. U.S. EPA website article Wastes-Hazardous Waste
- C2. Website article ASPHALT PLANT POLLUTION by The Blue Ridge Environmental Defense League
- D2. Diagram of the pond on the Sexton Properties R.P., LLC site from the Tough Cuts Concrete Services, Inc.'s IEPA application
- C Village of Richton Park Planning & Zoning Commission Public Hearing Minutes
- A2. Illinois Environmental Protection Agency Division of Air Pollution Control-Permit Section

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RESPONSE TO MOTION TO DISMISS COMPLAINT

On January 26, 2012, the Illinois Environmental Protection Agency's Attorney, by its attorney, Lisa Madigan, Attorney General of the State of Illinois was prepared by Senior Assistant Attorney General, Gerald T. Karr, and electronically filed with the Illinois Pollution Control Board a motion to dismiss our complaint. Since the IEPA has not complied and enforced the siting approval requirements of the Illinois Compiled Statutes (ILCS) at 415 ILCS 5/1 et seq, in Sections 3.330, 39, 39.2, and 40.1 of the Illinois Environmental Protection Act, **the Illinois Pollution Control Board has the authority to revoke the construction permit that the IEPA granted to Tough Cuts.** On **January 30, 2012**, Anielle Lipe was served through the mail this motion to dismiss our complaint, and Nykole Gillette was served on **February 1, 2012** by Senior Assistant Attorney General, Gerald T. Karr. Please see the (Exhibits Y1 and Z1) for the postage date stamps of Anielle Lipe and Nykole Gillette's envelopes.

Complainants, Anielle Lipe and Nykole Gillette request that the Illinois Pollution Control Board continue to review our complaint on the basis of the IEPA violating the "Act", and have brought this issue to the attention of the "Board" to ensure that the siting approval requirements of the "Act" are enforced. Therefore, the case is not frivolous or duplicative within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202).

As we understand, “the Attorney General is the chief legal officer of the State of Illinois and the Attorney General has” the duty “to represent the interests of the People so as to ensure a healthy environment for all citizens in Illinois.” Ill. Const. 1970, art. V, §15; *People v. NL Industries*, 152 Ill.2d 82, 103 (1992).” “The Illinois EPA was created by the Illinois Environmental Protection Act, and is required to execute the laws of the Illinois Environmental Protection Act. “The Illinois Pollution Control Board” “was also created by the Act and is required to determine, define and” carry out the environmental control standards applicable in Illinois per 415 ILCS 5/5 (2010).

Tough Cuts and its partnering company, Sexton Properties R.P., LLC have proposed a joint venture to crush asphalt and concrete on Sexton Properties site and use some of the crushed material as fill. Sexton Properties R.P., LLC is considered a pollution control facility per the “Act” because its current and proposed crushing operation is considered to be a **Waste Storage facility, Waste Disposal site, Waste Treatment facility** and a **Sanitary Landfill**. Per the Illinois Compiled Statutes (Text of Section from P.A. 96-1314) Sec. 3.330 (a) “**Pollution Control Facility**” is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.” “(b) A new pollution control facility is:

1. a pollution control facility initially permitted for development or construction after July 1, 1981; or
2. the area of expansion beyond the boundaries of a currently permitted pollution control facility; or
3. a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.”

Tough Cuts’ partnering company, Sexton Properties R.P., LLC **does not** qualify for the exemptions of it not being a pollution control facility because not all of the crushed CCDD material will be recycled and some of the non-recycled crushed CCDD material will be used as fill on the site.

The following activities proposed by Tough Cuts involve the management of waste:

(a) Tough Cuts’ proposes to crush concrete and asphalt, chemical hazardous waste at the Sexton Properties R.P., LLC’s site for the first time. The crushing operation would classify Sexton Properties R.P., LLC’s site as a Pollution Control Facility or Waste Treatment facility because the crushing operation would consist of **grinding** the asphalt and cement into fine dust. Per (Exhibit A1), **Waste Treatment** means “any activity that changes the waste is regulated as waste treatment. Treatment includes, among other things, mixing the waste with other wastes or materials, burning, **grinding** or separating the waste.”

(b)The crushing operation at the Sexton Properties R.P., LLC’s site would also be considered a **Waste Disposal facility** because the IEPA expects some waste will be emitted in the air and escape into the environment. Per (Exhibit A1), the

Illinois Environmental Protection Agency states “**Waste Disposal** includes, among other things, dumping waste on the ground, storing it in piles on the ground, in a landfill, or in lagoons and storing waste indefinitely, even when it is held in tanks, buildings or containers.” Pursuant to the Illinois Environmental Protection Act that is located in the Illinois Compiled Statutes (415 ILCS 5/3.185) (was 415 ILCS 5/3.08), Sec. 3.185 ““**Disposal**”” “means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be **emitted into the air** or discharged into any waters, including ground waters.” Cement dust emitted into the air and escapes into the environment contains some of the following: particulate matter (particle pollution) such as Fly Ash, Bottom Ash, Silica dust and Fumes(gases) and Blast Furnace Slag. In reference to (Exhibit C2), The Blue Ridge Environmental Defense League’s article entitled, “Asphalt Plant Pollution,” it discusses the various chemical toxins in Asphalt. The Asphalt fumes emitted into the air contain hazardous toxins and carcinogens such as: carbon disulfide, methyl ethyl ketone, toluene and xylene. These chronic toxicants “have a negative impact on the human nervous system and/or human growth and development.” The Asphalt fumes contain another toxin, styrene which is considered an acute system toxicant which is a pollutant that causes “death of laboratory animals within 14 days of exposure or is toxic based on human experience.” Asphalt fumes also contain the chemical hazardous wastes benzene, trichloroethylene, and perchloroethylene which are considered carcinogens. These carcinogens are “known to cause cancer or which are suspected to cause cancer in humans.” Benzene, carbon disulfide, methyl ethyl ketone, styrene, toluene, trichloroethylene, and xylene are all included as Hazardous Air Pollutants per the 1990 Clean Air Act Amendments. Benzene, methyl ethyl ketone, styrene, toluene, and perchloroethylene are all colorless per the McGraw-Hill Dictionary of Scientific and Technical Terms Fourth Edition. Webster’s New World College Dictionary Fourth Edition states that xylene is also colorless. Several of the asphalt colorless fumes are classified as polynuclear aromatic hydrocarbons and VOCs, and some produce strong odors. Since several asphalt mixtures also contain silica, then crushed asphalt would also admit harmful dusts.

The Assistant Attorney General, Stephen Sylvester filed Post Hearing Public Comments with the IPCB regarding the proposed amendments to CCDD fill operation on 12/2/11 stated that “CCDD includes asphalt, which is a source of polynuclear aromatic hydrocarbons (“PNAs”) which by operation of the Board Waste Disposal Regulations would classify CCDD as a “chemical waste”. See 35 Ill. Adm. Code 810.103.” As a result of asphalt being classified as a chemical carcinogen or hazardous waste, the proposed crushing of asphalt would qualify it as a **new pollution control facility** that stores and disposes hazardous waste. Per (Exhibit B2), the USEPA under the Subheading, Wastes-Hazardous Waste, “Hazardous waste is waste that is dangerous or potentially harmful to our health or the environment. Hazardous wastes can be liquids, solids, gases or sludges. They can be discarded commercial products, like

cleaning fluids or pesticides, or the by-products of manufacturing processes.”
“Types of Hazardous Waste: Hazardous waste are divided into listed wastes, characteristic wastes, universal wastes, and **mixed wastes.**” The various mixtures of chemicals in Asphalt defines it as a chemical hazardous waste.

Another name for polynuclear aromatic hydrocarbons (PNAs) is polycyclic aromatic hydrocarbons (PAHs). Nykole Gillette emailed the IEPA’s Bureau of Air on November 18, 2011, during the time public comments were accepted, and in this email she mentioned the topic of polycyclic aromatic hydrocarbons. The following sentences were part of her email. According to the textbook entitled, “Pathophysiology Concepts of Altered Health States Seventh Edition, “among the **most potent** of the **procarcinogens** are the **polycyclic aromatic hydrocarbons.**” Chemical agents are capable of causing cancer they are classified into two groups. One of these groups is called procarcinogens because a person can get cancer after these chemicals undergo a “metabolic conversion” process in a person’s body. According to the Illinois Department of Public Health’s Environmental Health Fact Sheet for **Asphalt Fumes, asphalt “fumes are a mixture of several different types of chemicals including: volatile organic compounds, carbon monoxide, sulfur, nitrogen oxides, and polycyclic aromatic hydrocarbons.”** The link to this website is <http://www.idph.state.il.us/envhealth/factsheets/asphalt.htm>. Furthermore, the textbook “Pathophysiology Concepts of Altered Health States Seventh Edition” states that “the effects of carcinogenic agents usually are dose dependent – the larger the dose or the longer the duration of exposure, the greater the risk that cancer will develop.” “There usually is a time delay ranging from 5 to 30 years from the time of chemical carcinogen exposure to the development of overt cancer.” Also, the Illinois Department of Public Health’s (IDPH) Environmental Health Fact Sheet for Asphalt Fumes states, “asphalt is a **mixture** containing **thousands** of **different chemicals.**” The IDPH’s Environmental Health Fact Sheet for Polycyclic Aromatic Hydrocarbons (PAHs) states, “**PAHs are found** throughout the environment in the **air**, water and soil, and can **remain in the environment for months or years.**” The link to this fact sheet is <http://www.idph.state.il.us/envhealth/factsheets/polycyclicaromatichydrocarbons.htm>.

While speaking with the Bureau of Land at the IEPA, it was indicated that Sexton Properties R.P., LLC has also applied for a modification in their CCDD permit to fill an existing pond on their site which would expand the area beyond the boundaries of their currently IEPA permitted sanitary landfill. Please see (Exhibit D2) for the diagram of the pond on the Sexton Properties R.P., LLC’s site. Based on the information provided, this fill operation could be considered managing waste of a pollution control facility.

Since Tough Cuts and Sexton Properties R.P., LLC’s joint venture crushing operation of the CCDD materials have classified it as **a new pollution control facility**, and the fill operation of the pond on Sexton Properties R.P., LLC’S site could be considered an **expansion of the sanitary landfill**, Sexton Properties R.P., LLC should have obtained local siting approval.

The IEPA failed to comply and enforce the “Act” when:

- the IEPA reviewed Tough Cut’s Life Time Air Permit application to crush concrete/asphalt on their **partnering company**, Sexton Properties R.P., LLC’s, sanitary landfill site
- and granted Tough Cuts a construction permit **without Tough Cuts providing proof that their joint venturing company, Sexton Properties R.P., LLC obtained local siting approval.**

In support of this joint ventured crushing operation between Tough Cuts and Sexton Properties R.P., LLC, please see (Exhibit C) public hearing minutes from the Village of Richton Park Planning & Zoning Commission, June 14,2011, page 1 states “ Per Todd Sexton, the company would like to secure the services of Tough Cuts, a sub-contracted concrete crushing operator who presently works with IDOT and other companies.” Also per the Tough Cuts application to the IEPA, (Exhibit A2) Illinois Environmental Protection Agency Division of Air Pollution Control – Permit Section, it indicates under subheading, **II. Source Information** that the “Source name: **Tough Cuts/Sexton Crushing Site.**” Since this operation involves a joint venture of Tough Cuts proposing to crush waste materials on the site of Sexton Properties R.P., LLC, a pollution control facility, Tough Cuts, the operator should have submitted a siting approval permit obtained by Sexton Properties R.P., LLC with its Life Time Air Application to the IEPA. As a result of Tough Cuts not submitting the siting approval permit from its partnering company, the application should have been denied by the IEPA.

In addition, Senior Assistant Attorney General, Gerald T. Karr states in his motion to dismiss our complaint that we as third party appellants do not have the right to challenge the construction and operation permit, and the Illinois Pollution Control Board has no authority to allow the challenge because the attorney claims there is no explicit statutory authority. In regards to our complaint, the Illinois Pollution Control Board does have authority to enforce the “Act” by ensuring that the **siting approval requirements** of a pollution control facility and its operations are in compliance. Also the “Board” must verify under the “Act” that the crushing/fill operation does not pose a threat to public health, safety and welfare. Although the IEPA is also obligated to follow the requirements of the “Act” which includes providing proof that a permitted operation isn’t harmful to human health and the environment, they failed to do so in our case. Yet we have given the IEPA multiple information and statistics based on the U.S. EPA’s fact sheets, the Illinois Department of Public Health’s Environmental Fact Sheets, numerous healthcare books, several environmental encyclopedia reference books, and other researched articles showing that the particulate pollutants under 10 micrometers and chemical waste emitted from the crushing of concrete and asphalt can be detrimental to the public and environment. In other words, the IEPA has permitted a crushing operation to emit hazardous waste/particulate pollutants in the air when there aren’t any safe levels for human and environmental exposure. The IEPA has gone so far as to approve Tough Cuts’ permit in which the names of the chemical waste and the amount of their emissions from the crushing of asphalt and concrete **were not listed nor was question #6 of the**

application completely answered. Please see (Exhibit A2) on page 3, question #6 under the heading, "VIII. Summary/Review Of Contents of the Application" that states" does the application include a listing and summary of the requested permitted annual emissions (tons/year) of the proposed project for the new and/or modified emission units for the pollutants to be emitted (CO, NO_x, PM/PM10, SO₂, VOM and/or individual and combined HAPs), and if for an existing permitted source, how the new emissions correlate to the total proposed emissions for the entire source?" Yet, the IEPA wants to use the public in the Richton Park area and its neighboring suburbs as a "**Scientific Test**" for a year to determine how many pollutants and the amounts that will be emitted from the crushing operation. Although the IEPA doesn't have any specific statistics on long term concrete and asphalt **crushing** operations, the complainants provided statistics and information to the IEPA about the exposure to the emissions of chemical waste and particulate matter in the air by other concrete batch factories and asphalt plant operations which have proved to be harmful.

Per (Exhibit C2) on page 2, it states "The Blue Ridge Environmental Defense League has released two studies showing the adverse impacts on property values and public health for residents living near operating asphalt plants. A property value study documented losses of up to 56% as a direct result of an asphalt plant. In another study nearly half of the residents report negative impacts on their health after only two years of asphalt plant operations. The door-to-door survey shows that 45% of the residents living within a half mile of a two year old asphalt plant report a deterioration of their health which began after the plant opened. The most frequent problems include high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%)." The proposed asphalt/concrete crushing site is within 2 blocks to a mile from businesses, schools, residential and recreational areas. Per Tough Cuts' Life Time application, they propose to crush asphalt and concrete for 3 to 10 years. Since the **crushing operation is outdoors, the operation poses an even greater risk of detriment to the public and the environment** because the crushing operation is not in an enclosure of a building.

As an appeasement to the public, the Village of Richton Park granted a Special Use Permit to Sexton Properties R.P., LLC, and requested they install an air monitoring system to detect emissions from the crushing operation at their site. But the air monitoring system will **not** be able to distinguish the emissions or gases from the crushing of asphalt and concrete versus some of the same emissions exhausted from the pollution control equipment that the IEPA does not regulate. Therefore, the levels of emissions from the asphalt and concrete such as "CO, NO_x, PM/PM10, SO₂, VOM and/or individual and combined HAPS" could actually be higher than the IEPA's permitted .8 tons per year of particulate matter. Reason being is that those same emissions from the pollution control equipment that are not accounted for combined with the exact emissions from the crushing of asphalt and concrete make it impossible to determine which emissions are coming from which source. In some cases the emissions from the crushing of asphalt and concrete could be higher than .8 tons per year of particulate matter, or the pollution control equipment could have emissions higher than .8 tons per year. **The point of this matter is that the air monitoring system will not be**

able to distinguish the exact emissions from either source because the same emissions from both sources will be combined in the air. This shows that the monitoring system and the pollution control equipment is not enough to protect the public from the emissions of this crushing operation, and is a recipe for putting innocent lives at stake. Per (Exhibit C2), page 2, the Blue Ridge Environment Defense League in summary recommends that “any county or” suburb “faced with an asphalt plant proposal should push for setbacks from residences,” community buildings, and pursue a zero emission asphalt plant.

Another documented case, see link of <http://www.barkeyvilleborough.org/pollution.html> per page 2 it states that in “two Salisbury, N.C. communities located near asphalt plants have suicide rates about 16 times the state wide average.” “Dr. Richard Weisler, professor of psychiatry at UNC-Chapel Hill’s medical school” stated “we do not know with scientific certainty that the area suicides are linked to hazardous chemical exposures, but we know enough to recommend that it is not worth taking any more chances on the potential association.”

What is also of a dismay is the conflict between the U.S. EPA’s statistics as quoted from the Village of Richton Park and Tough Cuts’ environmental consultants, Derenzo and Associate’s research that states “the specified control measures are expected to reduce uncontrolled particulate and dust emissions at the planned **waste** concrete crushing and processing operations by at least 80%” per (Exhibit B), page 3 of the Derenzo and Associates, Inc. report. Therefore, up to 20% of the cement dust emitted into the air would be considered **waste**. (Exhibit B), page 2 of the Derenzo and Associates, Inc. report, indicates that “a total of approximately 250,000 tons of waste concrete material will be processed at the site annually.” Therefore, approximately 250,000 tons of waste concrete material processed annually times 20% emissions of pollutants in the air = approximately **50,000 tons of cement dust/particulate matter emitted in the air annually**. What is also unknown is how many tons of asphalt is to be crushed because Derenzo and Associates, Inc. only mentioned the amount of concrete to be crushed. Therefore, is additional tonnage of asphalt to be added to the 250,000 tons of waste concrete or will a percentage of asphalt proposed to be crushed be included in the 250,000 tons? Depending on the amount of tonnage of asphalt to be crushed will determine whether the emission percentage should increase further exposing the public and environment to dangerous toxins. Yet, the IEPA claims that only .8 tons per year of particulate is proposed to be emitted from the Sexton Properties R.P., LLC’s site. Based on the conflicting statistics, the waiver of a siting approval permit by Tough Cut’s partnering company, the incomplete application, and the IEPA’s denial of facts of how the emitted pollutants can harm the public and the environment; it shows that the IEPA has violated the “Act” in multiple ways.

In the Motion to Dismiss our case, the Senior Assistant Attorney General, Gerald T. Karr mentions the case, City of Waukegan vs Illinois Environmental Protection Agency, 339 Ill.App.3d 963(2nd Dist 2003) which has no relevance to our case. Reason being is our case involves the allegation of the IEPA not complying with section 39.2 local siting review of the "Act". Our case alleges and the "Act" defines the crushing and fill operation on the site of Sexton Properties R.P., LLC as a pollution control facility. Therefore, siting requirements should have been adhered to by Sexton Properties R.P., LLC, the partnering company of Tough Cuts. The case of the City of Waukegan doesn't involve them making the allegation that section 39C of the "Act" was not complied with by the IEPA. Rather, the City of Waukegan disagreed with the IEPA's decision that local siting approval is not required.

After researching the CCDD fill material since it involves Tough Cuts' partnering company, Sexton Properties R.P., LLC proposing to bury the crushed CCDD, Anielle Lipe located the public comments that the Assistant Attorney General, Stephen Sylvester, made with the "Board" regarding the changes in the CCDD laws. Because the public comments made by Assistant Attorney General, Stephen Sylvester representing Attorney General, Lisa Madigan's office was in support of strengthening the CCDD laws to protect the public, Anielle Lipe contacted the Assistant Attorney General, Stephen Sylvester. During the third week of December 2011, Anielle Lipe spoke with the Assistant Attorney General, Stephen Sylvester. The hopes of Anielle Lipe speaking with Assistant Attorney General, Stephen Sylvester was to get a better understanding about his public comments in changing the CCDD laws, discuss our case of the Village of Richton Park and the IEPA's noncompliance of the siting approval requirements per the "Act" and request if Attorney General, Lisa Madigan's office could assist in our case against the IEPA and the Village of Richton Park.

Anielle advised Assistant Attorney General, Stephen Sylvester specific and confidential details of their case regarding the IEPA and the Village of Richton Park waiving the siting approval requirements of Sexton Properties R.P. LLC, a Pollution Control Facility. Anielle further discussed with the expectation of confidentiality the issue of the IEPA reviewing Tough Cuts' Life Time Air application and granting Tough Cuts a construction permit without their partnering company, Sexton Properties R.P. LLC's obtaining siting approval per the "Act". During the discussion, Assistant Attorney General, Stephen Sylvester did not **disclose** that Attorney General, Lisa Madigan's office councils or represents the IEPA in cases against them. Otherwise, Anielle would not have divulged the confidential details of their case to Assistant Attorney General, Stephen Sylvester. There also appears to be a conflict of interest within the Attorney General, Lisa Madigan's office. On one hand, Assistant Attorney General, Stephen Sylvester is advocating on behalf of the public to strengthen the CCDD laws because the CCDD includes asphalt which is a source of chemical waste. On the other hand, Senior Assistant Attorney General, Gerald T. Karr is representing the IEPA of permitting the hazardous chemical waste from the crushing operation to be emitted in the air and buried per Tough Cuts and Sexton Properties R.P., LLC's proposed crushing operation. It is not fair that the Attorney General, Lisa Madigan's office did not make proper disclosure of representation or potential representation of the IEPA in cases against them prior to

Anielle divulging confidential details of our case. Therefore, the Attorney General, Lisa Madigan's office should be removed from representing the IEPA if the "Board" has authority to request reassignment in the IEPA's representation. From the very beginning of the application process for this crushing operation, Anielle Lipe, Nykole Gillette and other citizens were expecting a due process of the law. It is hoped that the "Board" executes the law in this matter and in deciding the case.

In conclusion, the IEPA has not enforced or complied with the local siting process of the "Act". The IEPA has also denied statistical facts of the degree of devastation the harmful pollutants emitted from this operation can have on human health, cost to property, productivity, quality of life and the environment. Therefore, the Complainants, Anielle Lipe and Nykole Gillette ask the "Board" to verify Sexton Properties R.P., LLC as a pollution control facility and revoke the Construction Permit granted to Tough Cuts' on the basis of the IEPA not complying with the siting approval process per the "Act", and provide such other relief as the "Board" deems appropriate.

Complainant Anielle Lipe Date 2/13/12

Complainant Nykole Gillette Date 2/13/12

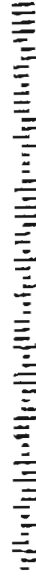
12 JAN-27-12 RETURN SERVICE REQUESTED

LISA MADIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
100 West Randolph Street
Chicago, IL 60601



Anielle Lipe
22123 Meadow Lake Place
Richton Park, Illinois 60471

LOADLINE 60471



(EXHIBIT Y1)

LISA MADIGAN
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POSTNET

(EXHIBIT Z1)

ASPHALT PLANT POLLUTION

Young & McQueen Grading Company wants to build an asphalt plant in Mitchell County. The draft air pollution permit proposed by the NC Division of Air Quality (Permit No. 09808R00) would allow the plant to produce up to 225,000 tons of asphalt per year at a maximum of 160 tons per hour. If given final approval by the state, the Young & McQueen plant would be allowed to emit the following air pollutants annually:

Chronic toxicants

carbon disulfide	682
methyl ethyl ketone	13,650
toluene	17,150
xylene	9,975

Acute system toxicants

styrene	3,780
---------	-------

Carcinogens

benzene	64
trichloroethylene (TCE)	4,000
perchloroethylene (PCE)	13,000

all pollutants in pounds per year

Chronic toxicants include neurotoxins and developmental toxins, substances which have a negative impact on the human nervous system and/or human growth and development.

Acute system toxicants are pollutants which cause the death of laboratory animals within 14 days of exposure or is toxic based on human experience.

Carcinogens are substances which are known to cause cancer or which are suspected to cause cancer in humans.

Definitions from the US Code of Federal Regulations (16CFR1500) for the Federal Hazardous Substances Control Act.

Annual totals based on production rate of 160 tons per hour for 1,406 hours per year or 175 days at 8 hours per day to produce 225,000 tons of asphalt.

October 2007

Certain pollution sources at the asphalt plant would be exempted from its state permit: 1) an Asphalt Tank Heater burning No. 2 fuel oil at 1.6 million BTU heat input and 2) a 10,000 gallon liquid asphalt storage tank. These units are known sources of toxic air pollution but are exempted by state statute; that is, they are listed in the permit but not included in the air pollution limits.

Asphalt Plant Pollution: A Public Health Hazard

Road asphalt contains gravel and sand mixed with asphalt cement obtained from crude oil. Asphalt cement is a mixture of hydrocarbons including naphtha which contribute to the vaporization of organic compounds at operating temperatures of 300-350 degrees F. Hydrocarbons released into the air by the hot mix asphalt as it is loaded into trucks and hauled from the plant site include volatile organic compounds, polycyclic aromatic hydrocarbons, and condensed particulates. Also, arsenic, benzene, formaldehyde, and cadmium are toxic air pollutants emitted from asphalt plants. Condensation of particulates occurs at *(continued next page)*

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

www.BREDL.org PO Box 88 Glendale Springs, NC 28629 (336) 982-2691 BREDL@skybest.com

(Exhibit)
C2

(from page one)

ambient temperatures of 70 degrees F. These very fine particles carry polycyclic aromatic hydrocarbons which are a danger to public health. Animal studies show that PAHs affect reproduction, cause birth defects, and cause harmful effects on skin, body fluids, and the immune system. The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [Source: Agency for Toxic Substances and Disease Registry (ATSDR). 1995. *Toxicological Profile for polycyclic aromatic hydrocarbons (PAHs)*. Atlanta, GA: U.S. Department of Health and Human Services, Public Health Service]

The effect of fugitive emissions on local pollution levels may exceed the effects of pollutants emitted from the smokestack.

In addition to smokestack emissions asphalt plants emit large quantities of harmful fugitive emissions at ground level. A small asphalt plant producing 100 thousand tons of asphalt a year may generate 50 tons of toxic fugitive emissions. The bulk of fugitive emissions are condensed particulates. Volatile organic compounds (VOC's) emissions are about 29% of the this total. To this must be added the total emitted from the smokestack itself. Stagnant air conditions and inversions increase the level of exposure to the local community.

The Blue Ridge Environmental Defense League has released two studies showing the adverse impacts on property values and public health for residents living near operating asphalt plants. A property value study documented losses of up to 56% as a direct result of an asphalt plant. In another study nearly half of the residents report negative impacts on their health after only two years of asphalt plant operations. The door-to-door survey shows that 45% of the residents living within a half mile of a two year old asphalt plant report a deterioration of their health which began after the plant opened. The most frequent problems include high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%).

Action recommendations

Federal regulation of asphalt plant emissions is inadequate to protect public health. EPA's emission estimates (AP-42) are inadequate to protect worker health and public health. Therefore, citizens must join together to protect their communities. Any county or town faced with an asphalt plant proposal should push for setbacks from residences and community buildings, site specific health-based air pollution modeling and monitoring, enclosures for load-out zones, and preferably a zero emissions asphalt plant, with total containment of air pollutants.

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

www.BREDL.org PO Box 88 Glendale Springs, NC 28629 (336) 982-2691 BREDL@skybest.com

(Exhibit
C2)

VILLAGE OF RICHTON PARK
Planning & Zoning Commission
June 14, 2011

CALL TO ORDER

Chairman Pluth called the meeting to order at 7:38 p.m. Roll call was taken and a quorum was established.

ROLL CALL

Present: Commissioners Canady, McDonald, Marsh, and Chairman Pluth

Also present: Village Manager De'Carlton Seewood, Community Development Director Regan Stockstell, Economic Development Interns Michelle Joseph and Eduardo Proenza, Todd and Drew Daniels from Sexton Properties, and residents Anthony Jones, Tommie and Gaylon Garner, Jerry Rials, Denise Washington, and Karen Long

NEW BUSINESS

PC 2011-09

Public Hearing The public hearing was opened at 7:40 p.m. - Consideration of a Special Use Petition to allow a concrete crushing operation

In May of 2005 the Village of Richton Park Board of Trustees approved Ordinance No. 1219 authorizing a special use permit for concrete crushing operation as it related to site improvements at the John Sexton Sand and Gravel Co. property located at the northeast corner of Sauk Trail and Central Avenue.

As stipulation in Section 14.06(l) Termination of Special Use Permit in the village zoning ordinance, the petitioner must begin the proposed work within three (3) years of the approved permit. Sexton has resubmitted their petition and is seeking approval or re-establishment of the special use permit, with changes in the conditions referenced in the 2005 ordinance. The public hearing notice concerning this matter was published in the Sunday, May 29th edition of the Southtown Star newspaper. Courtesy notices were also mailed to residents in the North Lakewood and Meadow Lakes neighborhoods.

Per Todd Sexton, the company would like to secure the services of Tough Cuts, a sub-contracted concrete crushing operator who presently works with IDOT and other companies. The changes the proposed by the company include:

- (a) monthly operations reports to the village versus the present quarterly reports
- (b) Changes in the hours of operation to a 7:00 a.m. start time Monday through Friday (presently 8:00 a.m.), and the addition of Saturday hours from 8:00 a.m. to 4:00 p.m.
- (c) Adding the ability to allow Tough Cuts to take away/use amounts of the crushed aggregate at other sites under the condition that they replace the amounts removed with a premium of additional aggregate.

(Exhibit)
C

(EXHIBIT)
B

Derenzo and Associates, Inc.

Environmental Consultants

AIR QUALITY IMPACTS
FOR
TOUGCUTS CONCRETE SERVICES, INC.
NONMETALLIC MINERAL
CRUSHING AND PROCESSING EQUIPMENT
AT
SEXTON DEVELOPMENT

1.0 PURPOSE

Derenzo and Associates Inc. (Derenzo and Associates) has prepared this document to present the results of air pollutant emission regulatory compliance analyses that were performed to evaluate nonmetallic mineral (waste concrete) crushing and processing equipment planned for operation by ToughCuts Concrete Services, Inc. (ToughCuts Concrete Services) at Sexton Development in Richton Park on approximately 80 acres of land located west of Interstate 57 and north of Sauk Trail.

2.0 EQUIPMENT AND PROCESS OPERATIONS

The planned waste concrete crushing and processing equipment will be operated:

1. At the western edge of the specified site, which provides the furthest distance from the closest residences, for a period of approximately three years; and
2. During the hours of 8:00 AM to 5:00 PM Monday through Friday.

ToughCuts Concrete Services plans to operate at the specified site the following equipment a:

1. Fintec F1107 mobile jaw crusher;
2. Thunderbird Kobelco 4230 portable jaw crushing plant;
3. Pioneer 54X25 triple roll crusher;
4. 1997 Viper 301 portable screening plant;
5. Backhoe loader (on tracks);
6. Front end loader (on tires);

(Exhibit)
B

Derenzo and Associates, Inc.

ToughCut Concrete Services, Inc.
Facility Compliance Evaluation

July 18, 201
Page 2

7. Tanker truck for the application of water to appropriate roadways and materials storage piles; and
8. Sweeper vehicle to maintain paved vehicle traffic roads (appropriate on site and off site areas).

The specified equipment will be used to handle / move concrete materials, reduce and size pieces of waste concrete, and control airborne emissions of particulates (dust). A majority of the processed materials will be stored in piles and sold to customers for use in construction projects. A small amount of the processed materials will be retained onsite for future development purposes. Waste pieces of concrete (from demolition projects) are delivered to the site where it is stored and subsequently processed at appropriate times.

The crushers and screens will process up to approximately 80 tons of material per hour (TpH) of operation. While ToughCuts Concrete Services plans to place three crushers at the waste concrete processing site no more than two crushers (which will be operated in series) will ever be used at the same time.

A total of approximately 250,000 tons of waste concrete material will be processed at the site annually (TpY).

A single backhoe loader will be used to move waste concrete (from storage piles) to the crusher(s).

A single front-end loader will be used to remove processed material (final product) for customer load-out activities.

The planned crushing and screening operations are equipped with water sprays to control particulate emissions that are generated from the specified material reduction and sizing operations.

Site paved and unpaved roadways will be swept and watered (unpaved roads will not be swept) as often as necessary to minimize dust emissions from vehicle traffic.

Material stockpiles will be watered as necessary to minimize dust emissions from erosion and load-out operations.

The drop distance for all material transfer points will be reduced to the minimum that can be achieved for proper equipment operations.

Trucks will be loaded to appropriate heights that do not exceed the top of the container sideboard or tarped in order to prevent load materials from escaping.

Material spillage on local roadways will be cleaned immediately.

The specified control measures are expected to reduce uncontrolled particulate and dust emissions at the planned waste concrete crushing and processing operations by at least 80%. The waste concrete crushing and processing equipment will be operated so that the distance to the nearest residence, or commercial establishment or place of public assembly is greater than 1,320 feet (one quarter mile).

2.0 AIR POLLUTANT EMISSIONS

2.1 Particulate Emissions

Emissions of particulate matter are the main air pollutant that is produced by the operation of nonmetallic mineral crushing and processing facilities. Material crushing and processing plants typically have many pieces of equipment that have the potential to emit particulates. Most of these sources are referred to as fugitive emissions, which are difficult to quantify (i.e., they are not exhausted through a stack that provides ventilation to a piece of equipment or process; they are produced by open processes such as truck and loader traffic on paved and unpaved roads).

The USEPA has developed emission factors that are presented in a *Compilation of Air Pollutant Emission factors Volume I: Stationary Point and Area Sources (AP-42)* that numerous state regulatory agencies (including the Illinois EPA) rely on to estimate the amount of particulate matter that will be emitted from the operation of waste concrete crushing and processing facilities.

Based on the use of the AP-42 emission factors, the specified maximum material processing rates and minimum control efficiency of 80%, the planned waste concrete crushing and processing equipment is estimated to have maximum particulate matter (PM-10, particulates with diameters that are less than 10 microns for which USEPA promulgated National Ambient Air Quality Standards, NAAQS) emissions rates of 2.4 pounds per hour (lb/hr) and 3.75 Tpy. USEPA has promulgated NAAQS for PM-2.5 (particulates with diameters that are less than 2.5 microns). Emissions of these smaller particulates (based on the nature of the specified operations and information presented in AP-42) are estimated to be much smaller than those presented for PM-10.

2.2 Gaseous Emissions

Power generation equipment associated with nonmetallic mineral crushing and processing operations has the potential to produce gaseous emission (e.g., carbon monoxide, sulfur dioxide, volatile organic compounds, nitrogen oxides, particulates). However, the magnitude of these emissions has been determined by the Illinois EPA to be insignificant. Construction or operating permits are not required for stationary internal combustion engines that have



Illinois Environmental Protection Agency
 Division Of Air Pollution Control -- Permit Section
 P.O. Box 19506
 Springfield, Illinois 62794-9506

Application for a Construction and/or Operating Permit for a Lifetime Source* (Form APC629)	For Illinois EPA use only	
	Date Received:	BOA ID Number: 031255 AAF
	RECEIVED SEP 16 2011	Application Number: 11080024
		ACES ID Number: 1700-0189-6394
Illinois Environmental Protection Agency BUREAU OF AIR		
	Construction Fee Check Amount Rec'd: 8	

***NOTE:** This form is intended to be used by all Lifetime Sources (see 415 IAC 201.169(a)) to identify and supply information as required by 35 IAC 201.152, 201.157, 201.159, 201.160, and 201.169 necessary to obtain a Construction Permit, a Joint Construction and Operating Permit, and/or an Operating Permit. Please attach other information, data, and/or completed forms regarding this project as necessary and appropriate.

I. Proposed Project Addressed By Application

1. Working Name of Proposed Project: TouchCuts/Sexton Crushing Project
2. Is the Project occurring at a source that already has a permit from the Bureau of Air (BOA)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If Yes, provide BOA ID Number: _____
3. Does this application request a revision to an existing permit issued by the Bureau of Air (BOA)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If Yes, provide Application Number: _____
4. Do you request a new or modified Construction Permit? <input type="checkbox"/> New <input type="checkbox"/> Modified <input checked="" type="checkbox"/> N/A
5. Do you request a new or modified Joint Construction and Operating Permit? <input checked="" type="checkbox"/> New <input type="checkbox"/> Modified <input type="checkbox"/> N/A
6. Do you request a new or modified Operating Permit? <input type="checkbox"/> New <input type="checkbox"/> Modified <input checked="" type="checkbox"/> N/A
7. If the application is for a construction permit, is the emission unit/air pollution control equipment covered by this application already constructed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If "yes", the date construction was completed must be provided: Date: _____
8. If this application incorporates by reference a previously granted permit(s), has form APC-210, "Data and Information-Incorporation by Reference" been submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

II. Source Information

1. Source name:* ToughCuts/Sexton Crushing Site		
2. Source street address:* Sexton development west of I-57 and north of Sauk Trail		
3. City:* Richton Park	4. County:* Cook	5. Zip code:*
* Is information different than previous information? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, then explain what is different and why/when changed.		

This Agency is authorized to require and you must disclose this information under 415 ILCS 5/39. Failure to do so could result in the application being denied and penalties under 415 ILCS 5 et seq. It is not necessary to use this form in providing this information. This form has been approved by the forms management center.
 IL 532-2866 APC629 9/07

(Exhibit)
 A2

VII. Other Addresses/Contacts for the Permit Applicant

ONLY COMPLETE FOLLOWING FOR A SOURCE WITHOUT AN EXISTING ID NUMBER OR IF INFORMATION HAS CHANGED.

1. Address for billing Site Fees for the source: Source Other (provide below):

Address: P.O. Box 1536

City: Frankfort

State: Illinois

Zip Code: 60423

2. Contact person for Site Fees:
Christine McClellan

3. Contact person's telephone number:
815-464-8462

4. Address for Annual Emission Report for the source: Source Other (provide below):

Address: P.O. Box 1536

City: Frankfort

State: Illinois

Zip Code: 60423

5. Contact person for Annual Emission Report:
Christine McClellan

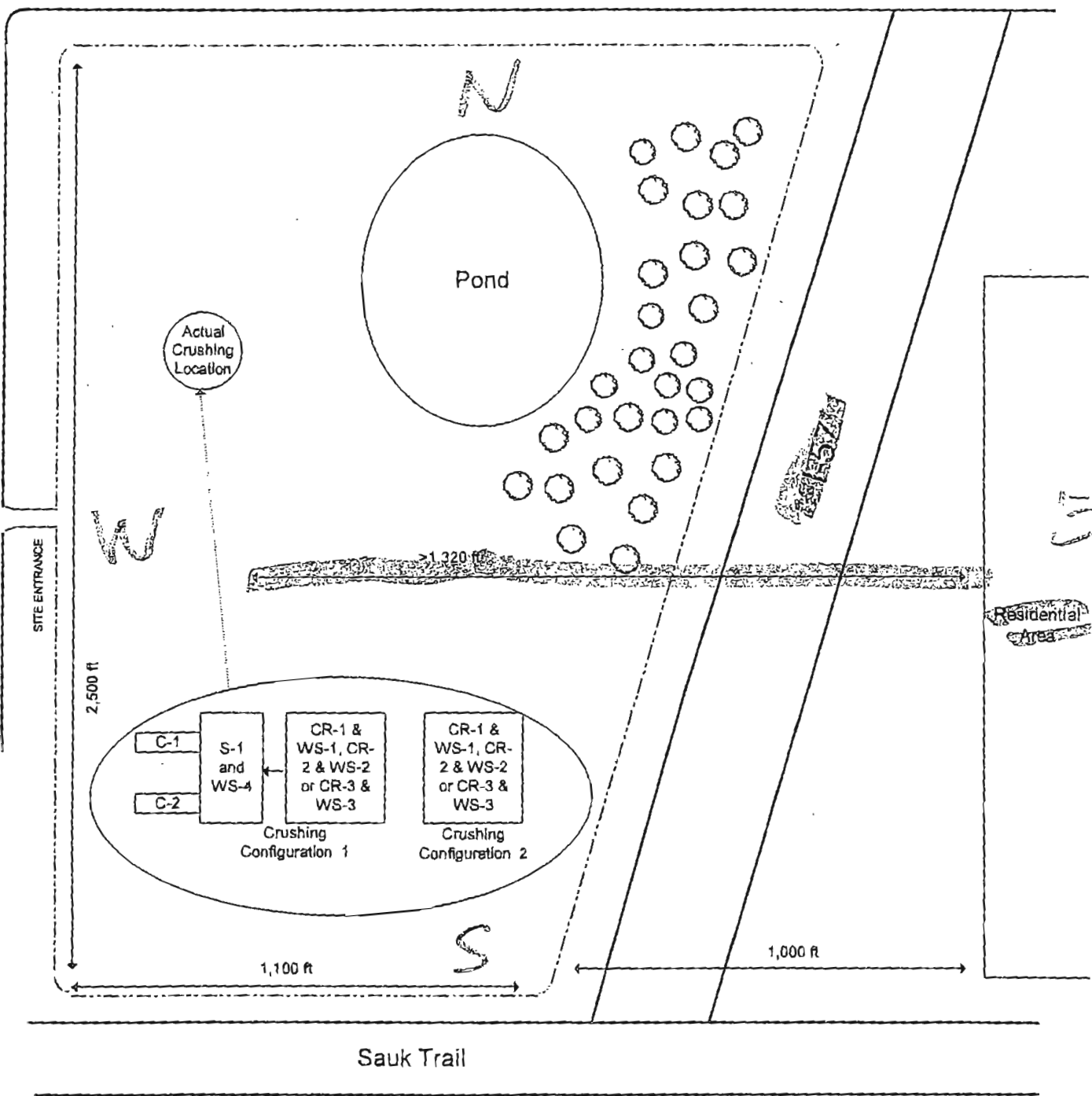
6. Contact person's telephone number:
815-464-8462

VIII. Summary/Review Of Contents of the Application

NOTE: ANSWERING "NO" TO THESE ITEMS MAY RESULT IN THE APPLICATION BEING DEEMED INCOMPLETE (SEE 35 IAC 201.158)

- | | |
|--|--|
| 1. Does the application include a detailed narrative description of the proposed project, and if for an existing source, does the application describe how the new/modified emission units/equipment in the project relate to the existing emission units/equipment at the existing source? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Does the application contain a list and detailed description of all the emission units and air pollution control equipment that are part of the project, and if the application includes a request for a revised operating permit, a list and description of all the emission units/equipment that the revised operating permit will need to address? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does the application include a process flow diagram(s) for the project showing new/modified emission units/equipment, and if for an existing source, how it relates to existing emission units/equipment at the existing source? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. If the project is at a source that has not previously received a permit from the BOA, does the application include a source description, plot plan and site map? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| 5. Does the application identify and address all applicable or potentially applicable performance and emissions standards, including: <ul style="list-style-type: none"> a. State emission standards (35 IAC Chapter I, Subtitle B); b. Federal New Source Performance Standards (40 CFR Part 60); c. Federal standards for Hazardous Air Pollutants (HAPs) (40 CFR Parts 61 and 63)? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A |
| 6. Does the application include a listing and summary of the requested permitted annual emissions (tons/year) of the proposed project for the new and/or modified emission units for the pollutants to be emitted (CO, NOx, PM/PM10, SO2, VOM, and/or individual and combined HAPs), and if for an existing permitted source, how the new emissions correlate to the total proposed emissions for the entire source? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A*
<small>* Project does not involve an increase in emissions from new or modified emission units.</small> |

Industrial/Commercial Property



ToughCuts/Sexton Crushing Site Plot Plan/Flow Diagram

(Exhibit D2)



Wastes - Hazardous Waste

You are here. [EPA Home](#) » [Wastes](#) » [Hazardous Waste](#)

Hazardous Wastes Quick Finder

Corrective Action	Mixed Wastes	Priority Chemicals	Test Methods
Definition of Solid Waste	PCBs	Regulations: User-Friendly Reference	Transporters
Management of Recalled Toys	Permitting and E-permitting	Documents	Universal Wastes
Manifests	Public Participation	Requirements for TSDFs	Waste Identification

Hazardous waste is waste that is dangerous or potentially harmful to our health or the environment. Hazardous wastes can be liquids, solids, gases, or sludges. They can be discarded commercial products, like cleaning fluids or pesticides, or the by-products of manufacturing processes.

Learn more about hazardous waste and the regulations that govern it:

- **Definition of Solid Waste (DSW):** Before a material can be classified as a hazardous waste, it must first be a solid waste as defined under RCRA. [Resources](#), including an [Interactive tool](#), are available to help.
- **Types of Hazardous Waste:** Hazardous waste are divided into [listed wastes](#), [characteristic wastes](#), [universal wastes](#), and mixed wastes. Specific procedures determine how waste is identified, classified, listed, and delisted.
- **Generators:** Hazardous waste generators are divided into categories based on the amount of waste they produce each month. [Different regulations](#) apply to each generator category.
- **Transporters:** Hazardous waste transporters move waste from one site to another by highway, rail, water, or air. Federal and, in some cases, State regulations govern hazardous waste transportation, including the [Manifest System](#).
- **Treatment, Storage, and Disposal (TSD):** Requirements for TSD facilities govern the treatment, storage and disposal of hazardous waste, including [land disposal](#), the [permitting process](#) and [requirements for TSD facilities](#).
- **Waste Minimization:** EPA, States, and Industries are working to reduce the amount, toxicity, and persistence of wastes that are generated.
- **Hazardous Waste Recycling:** EPA is addressing safe and protective reuse and reclamation of hazardous materials.
- **Corrective Action:** RCRA compels those responsible for releasing hazardous pollutants into the soil, water, or air to clean up those releases.

Related Links

National Partnership for Environmental Priorities is part of EPA's effort to reduce priority and toxic chemical use.

Household Hazardous Wastes are common household items that contain toxic chemicals and should be handled properly.

Waste Management for Homeland Security Incidents may include managing hazardous wastes.

Key Resources

User-Friendly Reference Documents

Data

Publications

Regulations

Uniform Hazardous Waste Manifest (PDF) (1 pg, 93K, About PDF)

SW-846 Test Methods