



John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

July 19, 2013

P.C.# 67

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JUL 23 2013

STATE OF ILLINOIS
Pollution Control Board

Re: VCNA Prairie, Inc. Post-Hearing Comments
Proposed Amendments to 35 Ill. Adm. Code 1100; Case No. R12-9 (B)

Mr. Therriault,

In accordance with Hearing Officer Tipsord's June 12, 2013 Order, VCNA Prairie, Inc. ("Prairie") submits the following Post-Hearing Comments to the Illinois Pollution Control Board (Board) regarding the above-referenced rulemaking case. Prairie was founded in 1948 in Bridgeview Illinois and currently operates four permitted Clean Construction or Demolition Debris (CDDD) fill operations in Illinois. Prairie has been integrally involved in the development of legislation, regulations and best management practices for CCDD with the Illinois Environmental Protection Agency (IEPA) since 1998.

Prairie is in full support of the elimination of groundwater monitoring from the proposed amendments, as ordered by the Board in 2012. However, there are continued concerns that the groundwater monitoring requirement will now be re-inserted into Part 1100.

As testified by Gregory Wilcox during the May 20, 2013 hearing, and as outlined within Hearing Exhibit No. 57, Bluff City Materials incurred costs in excess of \$471,000 to drill permanent groundwater monitoring wells and develop a groundwater model for its Bartlett facility. [TR, May 20, 2013, pp. 62-69; Hearing Exhibit No. 57, pp. 4, 6]. Prairie has not developed nor implemented a groundwater monitoring program for any CCDD locations, but using the information provided by Bluff City Materials, it is clear that the direct costs to Prairie would be cause to reconsider our continued acceptance of CCDD. Prairie's operations are only a fraction of the permitted CCDD and registered Uncontaminated Soil Fill (USF) sites in Illinois, and our cost to implement such a program would exceed \$1,884,000.

Ultimately, increased costs would be borne by the tax payers of Illinois. During the March 14, 2012, hearing relating to Case No. 2012-009, Claire Manning testified that disposal costs for uncontaminated soil at a landfill for the twenty projects then planned by the Chicago Public Building Commission (CPBC) would be approximately \$20.6 million, while disposal of the same material at a permitted CCDD site would be approximately \$5.7 million. [TR, March 14, 2012, page 8]. Similar figures for the Illinois Department of Transportation (IDOT), Chicago Department of Transportation, and local municipalities are not readily available, but it is not unreasonable to extrapolate the CPBC numbers and recognize that well over \$100 million would be spent unnecessarily on an annual basis for disposal of CCDD and uncontaminated soil at a municipal landfill.

Currently, CCDD and uncontaminated soil associated with construction activities is loaded into commercial trucks at the job site and hauled to quarries and gravel pits regulated by the IEPA. The material is placed for reclamation, and generally the same truck is loaded with aggregate at the facility and returns to the construction site, with the truck loaded for both legs of the trip. This cycle is then repeated until the construction project is complete. Having the commercial trucks loaded with material in both directions cuts down on the number of trucks on the road, and therefore reduces fuel consumption, wear-and-tear on already deteriorating roadways, and the overall carbon footprint of construction activities.

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Landfill space is finite. Originally, one of the drivers for allowing CCDD and uncontaminated soil to be permanently placed in quarries was to reduce the volume of material being placed in landfills. Landfill space should be reserved for municipal waste.

Since the interim rules have gone into effect, we have witnessed an increased number of unregulated CCDD disposal options being utilized throughout Northeast Illinois. Within the direct vicinity of each of our permitted sites, various farm fields, construction sites, valleys, and ditches are being filled with CCDD and various soils of unknown sources. These locations are not, nor are they required to be, registered or permitted with the State or local municipalities. The material that is accepted by these locations is not monitored, screened, or in any other way confirmed to be uncontaminated. The true risk to groundwater quality is this unregulated and unmonitored placement of CCDD occurring throughout the State. Imposing overly burdensome requirements on permitted and registered sites, such as the proposed groundwater monitoring scheme, will cause many sites currently regulated by the IEPA to cease operation, thereby increasing the volume of materials being disposed of in an unregulated manner.

For example, the current "Scope and Applicability" section of Part 1100 excludes from regulation material generated by construction or demolition in accordance with IDOT. [See 35 Ill. Adm. Code 1100.101(b) (3)]. This exemption also applies to Municipalities which follow IDOT specifications. As outlined in the attached June 13, 2013 Freedom of Information Act response from IDOT, 1768 waste pit and 271 borrow pit applications were approved by IDOT in 2011 and 2012 alone. By comparison, the IEPA website lists only 69 permitted CCDD sites and 18 registered Clean Soil Fill sites in Illinois. As Doug Clay, IEPA, explained during the May 20, 2013 hearing, these IDOT waste and borrow pits are not subject to any of the screening or paperwork requirements of Part 1100. [TR, May 20, 2013, pages 137, 147] Moreover, the groundwater monitoring program contained within proposed Part 1100, Subpart G, if mandated by the Board, will not be imposed on IDOT borrow and waste pits. [TR, May 20, 2013, pages 137, 147].

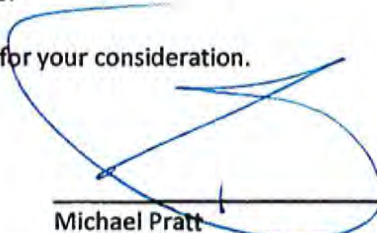
In summary, requiring the small group of permitted CCDD sites and registered USF sites to implement the groundwater monitoring program set forth in Part 1100, Subpart G, will force many of the sites currently regulated by the IEPA to cease accepting these materials, thereby shifting CCDD and uncontaminated soil fill to sites where such materials are not monitored, screened, or in any other way confirmed to be uncontaminated. In the absence of a legislative change mandating groundwater monitoring for all locations that accept CCDD and uncontaminated soil, the Board should not require the sites currently regulated under Part 1100 of the IEPA's regulations to begin implementing the groundwater monitoring program outlined with proposed Subpart G.

Prairie Material respectfully submits these comments for your consideration.

Sincerely,



Richard Olsen
President
VCNA Prairie, Inc.



Michael Pratt
General Manager, Aggregate Division
VCNA Prairie, Inc.



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

DATE: June 13, 2013

FOIA No.: CO-13-0226

Mr. John Henriksen
Executive Director
Illinois Association of Aggregate
Producers
1115 S. 2nd Street
Springfield, IL 62704

File Reference No.: Illinois Freedom of
Information Act -

Sent via e-mail to:
laap@hansoninfosys.com

The Department has reviewed your request for documents under the Freedom of Information Act.

Your request is granted.

1. How many borrow pit applications did IDOT approve in FY 2012? 134
2. How many waste pit applications did IDOT approve during FY 2012? 819
3. How many borrow pit applications did IDOT approve in FY 2011? 137
4. How many waste pit applications did IDOT approve during FY 2011? 949
5. During the past 20 years, has IDOT approved in excess of 100 borrow pit applications each year? Yes
6. During the past 20 years, has IDOT approved in excess of 100 waste pit applications each year? Yes
7. Does state or federal law require that a groundwater monitoring system be installed for borrow pits or waste pits approved by IDOT? No

Your request is granted in-part and denied in-part for the following reason(s):

The requested records are not in the possession of the Illinois Department of Transportation.

Your request is overly broad and burdensome.

Other:

* Please remit a check to the above address in the amount of: _____

Details:

Make check payable to the Treasurer, State of Illinois, for reproduction costs. Please send all payments to: FOIA Officer, Illinois Department of Transportation, Room 300, 2300 South Dirksen Parkway, Springfield, IL, 62764.

Your request is denied for the following reason(s):

- a. The requested records are exempt from inspection and copying pursuant to 5ILCS 140/7(1)_____.
- b. Other: _____

If you have any questions, please contact the Freedom of Information Act Officer, Barbara Brush, at (217) 785-2965.

If you feel that any part of this response is a denial of your request, you have a right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

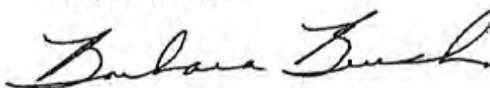
Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706
Fax: 217-782-1396

E-mail: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Very truly yours,



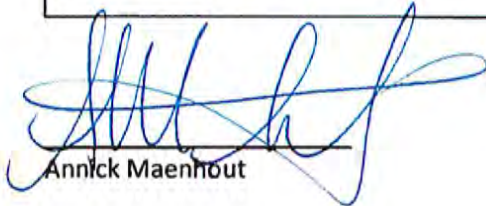
Barbara Brush
Freedom of Information Officer
Illinois Department of Transportation

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Prairie Material, Inc. Post-Hearing Comments by first class mail, postage prepaid, on July 19, 2013, upon the following persons:

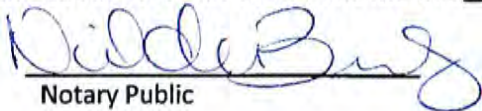
Marie Tipsord, Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph St., Suite 11-500 Chicago, IL 60601	John Therriault, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, IL 60601
Stephen Sylvester, Asst. Attorney General Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602	Claire A. Manning Brown, Hay & Stephens LLP 700 First Mercantile Bank Building 205 South Fifth St., P.O. Box 2459 Springfield, IL 62705-2459
Kimberly A. Geving, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276	Mark Wight, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276
Stephanie Flowers, Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276	Dennis Wilt Waste Management 720 East Butterfield Road Lombard, IL 60148
Michele Gale Waste Management 720 East Butterfield Road Lombard, IL 60148	Mitchell Cohen, General Counsel Illinois Department of Natural Resources One Natural Resources Way Springfield, IL 62702-1271
Steven Gobelman, Geologic/Waste Assessment Specialist Illinois Department of Transportation 2300 S Dirksen Parkway Springfield, IL 62764	Doris McDonald, Assistant Corp Counsel Chicago Department of Law 30 North LaSalle St., Suite 1400 Chicago, IL 60602
Dennis G. Walsh <u>Klein, Thorpe and Jenkins, Ltd.</u> 20 North Wacker Drive Suite 1660 Chicago, IL 60606-2903	Gregory T. Smith <u>Klein, Thorpe and Jenkins, Ltd.</u> 20 North Wacker Drive Suite 1660 Chicago, IL 60606-2903
James Huff - Vice President <u>Huff & Huff, Inc.</u> 915 Harger Road, Suite 330 Oak Brook, IL 60523	Greg Wilcox, Executive Director Land Reclamation & Recycling Association 2250 Southwind Blvd. Bartlett, IL 60103

<p>Greg Lansu, Attorney Land Reclamation & Recycling Association 2250 Southwind Blvd. Bartlett, IL 60103</p>	<p>Dean Olson, Director Will County Land Use Department 58 E. Clinton Street, Suite 500 Joliet, IL 60432</p>
<p>Keith Harley Chicago Legal Clinic 211 West Wacker Drive, Suite 750 Chicago, IL 60606</p>	<p>James M. Morphew Sorling, Northrup, Hanna, Cullen & Cochran 1 North Old State Capitol Plaza, Suite 200 P.O. Box 5131 Springfield, IL 62705</p>
<p>Tiffany Chappell City of Chicago, Mayor's Office of Intergovernmental Affairs 121 N. LaSalle Street, Room 406 Chicago, IL 60602</p>	<p>Craig B. Simonsen, Paralegal Seyfarth Shaw LLP 131 South Dearborn Street, Suite 2400 Chicago, IL 60603-5803</p>
<p>Philip L. Comella Seyfarth Shaw LLP 131 South Dearborn Street, Suite 2400 Chicago, IL 60603-5803</p>	<p>Jeryl L. Olson Seyfarth Shaw LLP 131 South Dearborn Street, Suite 2400 Chicago, IL 60603-5803</p>
<p>John Henriksen, Executive Director IL Association of Aggregate Producers 1115 S. Second Street Springfield, IL 62704</p>	<p>Matthew J. Dunn, Chief Environmental Enforcement Office of the Attorney General 69 West Washington Street, Suite 1800 Chicago, IL 60602</p>


Annick Maenhout

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this 19th day of July, 2013.


Notary Public

