



TYRONE C. FAHNER

ATTORNEY GENERAL

STATE OF ILLINOIS

SPRINGFIELD

December 14, 1982

FILE NO. 82-051

ENVIRONMENTAL PROTECTION:
Application of Wastewater Land
Treatment Site Regulation Act to
Disposal of Sludge in a
Sanitary Landfill

Honorable J. Michael Fitzsimmons
State's Attorney, DuPage County
207 Reber Street
Wheaton, Illinois 60187

Dear Mr. Fitzsimmons:

I have your letter in which you ask whether the Waste-
water Land Treatment Site Regulation Act (Ill. Rev. Stat. 1981,
ch. 111 1/2, par. 581 et seq.) applies to the disposal of
sludge through the method of sanitary landfill in circumstances
where the sludge is integrated into other waste being accepted
at the landfill and is covered on a daily basis with a proper
layer of earth in accordance with the requirements of the
Illinois Environmental Protection Agency. For the reasons

COPIES

Honorable J. Michael Fitzsimmons - 2.

hereafter given, it is my opinion that the Act does not apply in these circumstances.

The Wastewater Land Treatment Site Regulation Act provides a mechanism for the regulation of "wastewater land treatment sites" and "digested sludge utilization sites". The Act creates a steering committee, comprised of State and local authorities, to act as an advisory body and to review programs for the establishment and operation of both types of sites. (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 583.01, 583.03, 583.04.) Section 3.05 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 583.05) prohibits any person from establishing, operating, managing or maintaining any wastewater land treatment site or any digested sludge utilization site without first obtaining a permit from the Illinois Environmental Protection Agency. The Act authorizes local governmental regulation of wastewater land treatment sites but not digested sludge utilization sites. (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 588.) Section 4 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 484) prohibits any person from establishing, operating, managing or maintaining any wastewater land treatment site without a certificate of authorization granted by the county board of the county in which such site is to be established. Section 6 of the Act authorizes the local county board to enact standards, rules and regulations governing the management and establishment of such sites.

Honorable J. Michael Fitzsimmons - 3.

As indicated by these provisions, the Act applies only to "wastewater land treatment sites" and "digested sludge utilization sites". The answer to your question thus turns on whether the disposal of sludge through the method of sanitary landfill, as described in your letter, falls within the meaning of either of those two terms as they are defined in the Act.

Section 2.04 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 582.04) defines wastewater land treatment site as follows:

"'Wastewater land treatment site' means any sewage lagoon, storage lagoon, sludge drying lagoon, irrigation field, however such lagoon or field is denominated, used for storing, draining, treating or purifying wastewater through bacterial action and natural soil filters, but does not mean a digested sludge utilization site."

Sludge, but not digested sludge, is included in the Act's definition of "wastewater". (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 582.03.) The language of the above definition is clear and unambiguous. In such a case there is no need to resort to extrinsic aids of statutory construction, and the plain language of the statute must be given effect. People ex rel. Cruz v. Fitzgerald (1977), 66 Ill. 2d 546, 551.

By the express terms of the statutory definition, a wastewater land treatment site extends only to certain types of lagoons and irrigation fields which are used for storing, draining, treating or purifying wastewater. With respect to

Honorable J. Michael Fitzsimmons - 4.

the site at issue, you state that no sludge will be disposed of in open ponds, lagoons or fields. Instead, the sludge will be disposed of in the same manner as other wastes received at the landfill, i.e., it will be placed below the surface of the landfill and will be covered each day with a suitable layer of earth in accordance with Illinois Environmental Protection Agency requirements. This disposal process comports with the definition of "sanitary landfill" found in the Environmental Protection Act. (See Public Act 82-783, article 3, section 53, to be codified at Ill. Rev. Stat., ch. 111 1/2, par. 1003(bb).) Also, it is noteworthy that, in a similar context, the Environmental Protection Act distinguishes between the "disposal" and the "storage" of waste. (Compare Public Act 82-783, article 3, section 53, to be codified at Ill. Rev. Stat., ch. 111 1/2, par. 1003(e), with Public Act 82-783, article 3, section 53, to be codified at Ill. Rev. Stat., ch. 111 1/2, par. 1003(gg).) Because the site at issue is neither a lagoon nor an irrigation field and because it is devoted to the permanent disposal rather than the storage of waste, it clearly falls outside the statutory definition of a "wastewater land treatment site".

You state that the sanitary landfill at issue may accept digested sludge for disposal at the site. Thus, the question arises whether the landfill is a "digested sludge

utilization site" within the meaning of the Act. This term is defined in section 2.06 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 582.06) as follows:

"'Digested sludge utilization site' means any storage basin or lagoon; drying field or bed; irrigation or application field; nutrient barriers; environmental transition zones; application field runoff storage reservoir; or any other area or facility related to the application of digested sludge to land."

The sanitary landfill at issue does not meet the terms of this definition. Firstly, a sanitary landfill is not included within, nor is it encompassed by, any of the six specific classes of sites enumerated in the definition. Secondly, a sanitary landfill does not fall within the general phrase "any other area or facility related to the application of digested sludge to land".

Under the doctrine of ejusdem generis, where a statute specifically enumerates several classes of persons or things and immediately following, and classed with such enumeration, a general clause appears which embraces "other" such items, the word "other" will generally be construed to mean "other such like" and not of a quality different from those specifically enumerated. (People v. Capuzi (1960), 20 Ill. 2d 486, 493-94.) In this case, a sanitary landfill, which is devoted to the permanent disposal of waste, is not of the same general nature as those sites specifically enumerated in the definition, which involve digested sludge storage or the application

Honorable J. Michael Fitzsimmons - 6.

of digested sludge to land. Therefore, a sanitary landfill does not fall within the general clause of the statutory definition.

That the disposal of digested sludge in a sanitary landfill cannot be considered an "area or facility related to the application of digested sludge to land" is made clear by the State regulations on the subject. During its rulemaking proceedings on permits for sites receiving sludge for land application, the Illinois Pollution Control Board made the following pertinent comments:

" * * *

* * * Sludge disposal in a landfill is to be distinguished from application to land. The former is regulated because sludge to be landfilled is 'waste' and 'refuse' as defined in the [Environmental Protection] Act. * * * On the other hand, land application of sludge is regulated pursuant to Title III of the Act and Chapter 3: Water Pollution. * * * Regulation of land application pursuant to Chapter 3 is independent of whether the sludge is 'waste'. * * *

* * * "

(Illinois Pollution Control Board, Regulatory Proceeding R77-12, Docket B, Order dated March 19, 1981, p. 5.)

Thus, the Pollution Control Board exempted solid waste sludge disposal operations from its permit requirements for land application of sludge. See 35 Ill. Admin. Code § 309.208(a)(3).

For the above reasons, the sanitary landfill at issue does not fall within the Act's definition of "digested sludge

Honorable J. Michael Fitzsimmons - 7.

utilization site". Because the site at issue is neither a wastewater land treatment site nor a digested sludge utilization site, it is my opinion that the Wastewater Land Treatment Site Regulation Act is not applicable, under these facts, to the disposal of sludge through the method of sanitary landfill.

Very truly yours,


A T T O R N E Y G E N E R A L