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SPRINGFIELD

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FILE NO. 82-052

ENVIRONMENTAL PROTECTION:
Hazardous Waste Disposal Fee
Authority to Collect Fee for
Disposal Into Deep Wells

Richard J. Carlson, Director
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Dear Mr. Carlson:

I have your letter wherein you inquire whether the passage of Public Act 82-380, which amended the definition of "disposal" in section 3(e) of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 1003(e)) to include disposal "into any well", obligates the Environmental Protection Agency to collect the hazardous waste disposal fee established in section 22.2 of the Act (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 1022.2) for hazardous waste disposed of into

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deep wells. For the reasons stated below, it is my opinion that the collection of fees for disposal into deep wells is required by the Environmental Protection Act.

Section 22.2 of the Act created two special funds, known as the "Hazardous Waste Fund" and the "Hazardous Waste Research Fund", for the respective purposes of providing monies for taking preventive or corrective action at hazardous waste disposal sites and providing assistance in the research and development of methods for the recycling or reduction of hazardous waste in Illinois. To provide the required monies for these funds, section 22.2 of the Act provides that:

" * * *

(b) The [Environmental Protection] Agency shall collect, from the owner or operator of each hazardous waste disposal site, a fee in the amount of 1¢ per gallon or \$2.02 per cubic yard of hazardous waste received on and after the effective date of procedures established by the Agency under subparagraph (c) of this Section. * * *

* * *

"

The term "hazardous waste disposal site" is defined in subsection 3(k) of the Act, as amended by Public Act 82-380 (Ill. Rev. Stat. 1981 ch. 111 1/2, par. 1003(k)), as:

" * * * a site at which hazardous waste is disposed."

The definition of "disposal", as amended by Public Act 82-380 (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 1003(e)), is as follows:

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" * * * 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." (Emphasis added.)

Thus, by operation of the above statutory definitions, the Environmental Protection Agency is authorized by section 22.2 of the Act to collect the specified fees from the owner or operator of each site at which hazardous waste is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water "or into any well" where such waste or any constituent thereof may enter the environment.

There is nothing ambiguous or contradictory in these statutory provisions. The Act's definition of "disposal" (Ill. Rev. Stat. 1981 ch. 111 1/2, par. 1003(e)) clearly and plainly includes the " * * * deposit, injection * * * or placing of any * * * hazardous waste * * * into any well * * *". Where the language of a statute is clear and unambiguous, 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.) Therefore, the term "hazardous waste disposal site" must include each site at which hazardous waste is disposed of into any well.

Moreover, it appears that, even prior to the amendments effected by Public Act 82-380, the Agency was required

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and authorized to collect fees for the disposal of hazardous waste into deep wells in Illinois. Before the recent amendment, the definition of "disposal" specifically included "the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water * * *". (Emphasis added.) Prior to the enactment of Public Act 82-380, the term "hazardous waste disposal site" was defined as "a site on which hazardous waste is disposed". Because injection into any land on a site appears to encompass disposal into deep wells, Public Act 82-380 appears only to clarify existing authority.

Section 22.2 of the Act provides that the Agency "* * * shall collect * * *" a specified fee from the owner or operator of each hazardous waste disposal site. The use of the word "shall" in a statute is generally regarded as mandatory and is particularly so when the acts prescribed by a statute are intended for the protection of citizens' rights or property (Andrews v. Foxworthy (1978), 71 Ill. 2d 13), as would be the case here. Therefore, it is my opinion that the Environmental Protection Agency is obligated to collect the fee established in section 22.2 of the Act for hazardous wastes disposed of into deep wells.

Very truly yours,


ATTORNEY GENERAL