

BOBBY JINDAL  
GOVERNOR



HAROLD LEGGETT, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL SERVICES  
DEC 04 2008

RE: Notification of Final Permit Action.  
Permit Decision and Response to Significant Comments  
Industrial Pipe Inc.  
Permit Modification  
Type III Construction and Demolition Debris Landfill  
P-0261R1/AI#14689  
Plaquemines Parish

Dear Sir or Madam:

Thank you for your interest in the referenced matter. The Louisiana Department of Environmental Quality (LDEQ) has received and considered all public comments submitted regarding this permit action. Please be advised that the subject permit modification was approved on November 19, 2008.

The public comment response summary is attached and addresses significant public comments regarding this permit action. The permit and related documents are available for review at the LDEQ Public Records Center, Room 127, 602 North 5<sup>th</sup> Street, Baton Rouge, Louisiana. Viewing hours are from 8:00 a.m. to 4:30 p.m. Monday – Friday (except holidays).

If you would like to obtain copies of these documents, you may request them from LDEQ Records Management at the North 5<sup>th</sup> Street location above, write Records Management at P.O. Box 4303, Baton Rouge, LA 70821-4303, or call (225) 219-3168. Your request will be processed pursuant to LDEQ procedures for public record requests, LAC 33:1.2301, *et seq.*, and a copy fee will be charged.

Pursuant to La. R.S. 30:2050.21, an aggrieved person may appeal devolutively a final permit action only to the Nineteenth Judicial District Court for the parish of East Baton Rouge. A petition for review must be filed in the district court within thirty days after notice of the action has been given.

If you have any questions, please contact Curt Auzenne of the Office of Environmental Services, Permits Division, at (225) 765-3468.

Sincerely,

A handwritten signature in black ink, appearing to read "T. F. Harris".

Thomas F. Harris  
Administrator

Attachment

**RESPONSE TO ALL SIGNIFICANT COMMENTS  
INDUSTRIAL PIPE**

**AI 14689**

**62 comments total**

**COMMENT 1**

The modification poses unhealthy risks due to airborne dust, odors and noxious or toxic fumes.

**RESPONSE 1**

The modification does not increase the permitted capacity or fill rate for the landfill. It merely provides an alternate method of transportation and delivery of debris to the landfill. The alternate (barge delivery) will not significantly increase dust, odors or fumes over the delivery by truck currently authorized by the permit.

All construction and demolition debris (C & D) facilities are required by LAC 33:VII.521.H.1.g to have provisions for odor control. Industrial Pipe complies with this regulation. Generally C & D landfills do not emit noxious or toxic type odors that are normally associated with the breakdown of putrescible or industrial waste. Odors associated with a C & D landfill are far less than those associated with other landfill operations and are usually controlled with the application of cover material.

In the past four years the LDEQ has performed eight (8) compliance inspections at this site. No odors were detected at any of the inspections. The LDEQ also investigated three (3) odor complaints. Two (2) of the investigations noted odors at the landfill. On January 30, 2007, a slight Hydrogen Sulfide odor was detected. On February 8, 2007, a rotten egg odor complaint was investigated and determined to be coming from the vicinity of the nearby Chevron plant. No odors were detected in the community or at the front entrance. Pockets of gas odors were detected between the active area and the sand pit.

In the past four (4) years there is no record of dust complaints. However, Industrial Pipe will take appropriate actions to reduce dust generation through the use of water spraying, placement of additional aggregate to the road surface or other suitable dust control measures.

**COMMENT 2**

The landfill allows fires to run rampant.

**RESPONSE 2**

The referenced fire occurred in the midst of Hurricane Katrina cleanup. The woodwaste accumulated on site began to compost and caught fire. This was not unusual during the Hurricane Katrina cleanup due to the large volumes of woodwaste accumulated at the various sites throughout the Katrina-affected area. The fire started in woodpiles at the site on March 9,

2006, and continued through April 13, 2006. The LDEQ conducted twelve (12) investigations during this time period which noted that the fire and the smoldering remained in a controlled condition until the fire was extinguished on April 13, 2006. No violations or enforcement actions were issued.

### **COMMENT 3**

The landfill has an excessive and extensive history of permit violations.

### **RESPONSE 3**

The current permit for Industrial Pipe was issued on January 8, 2004, and reissued on August 26, 2004. Since the issuance of the permit there have been eight (8) compliance inspections and numerous complaint inspections. Industrial Pipe has been issued two compliance orders in that time period; one for unacceptable waste and one for failure to minimize erosion and acceptance of waste from other than the front gate. In 2007, a new operator assumed control of all landfill operations. Since that time, major cleanups have occurred onsite and changes to operating methods have occurred. The new operator has shown a willingness to work with the LDEQ to achieve the goals of protecting the environment.

The Department has, and will continue to perform routine inspections to ensure that all operations are in conformity with the approved permit application and the solid waste rules and regulations.

### **COMMENT 4**

Transferring waste from the barge directly to the landfill will violate buffer requirements as the waste will be off loaded with a crane type grabber and will move the waste through the buffer zone while the waste is being compacted and squeezed by the grabber. Such activity should be considered processing.

### **RESPONSE 4**

Process is defined in LAC 33:VII.115 as:

A method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique that is designed to change the physical, chemical or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale.

Incidental crushing that occurs within the grabber is not designed to change the physical character of the solid waste and thus is not considered processing.

LAC 33:VII.719.B.3 states that there shall be no storage, processing, or disposal of solid waste within the buffer zone. The method of waste transfer utilized by Industrial Pipe is considered transporting and there is no regulation that prohibits the transport of waste through the buffer zone.

**COMMENT 5**

There are already barge loads of creosote lumber that are supposed to be hauled off to a site in Mississippi. That is a hazardous waste.

**RESPONSE 5**

A complaint incident on February 24, 2008, stated that there were creosote timbers on the back of the landfill. In a compliance inspection on February 25, 2008, no areas of concern were noted. Mr. Tim Schostch, landfill general manager, also stated that since Riverside Recycling took over operations of the landfill, 240 tons of creosote timbers were removed and sent to River Birch Landfill. Creosote treated wood and other non-construction and demolition debris material are pulled from waste loads and segregated prior to shipping off site for proper disposal.

**COMMENT 6**

There is no way to control or to tell what is being hauled in the barges down Hero Canal. How will Industrial Pipe be able to ensure that only permitted wastes are being shipped to the site? What kind of accountability program will the LDEQ put in place to ensure that only permitted wastes are shipped to this site?

**RESPONSE 6**

Waste in barges must follow the waste handling procedures as outlined in section 521.H.1.b of the permit application. This includes an initial waste inspection of the barge prior to unloading. Subsequently, during the removal process, the waste is inspected again for unacceptable materials. Finally, as the waste is being placed in the active face of the landfill it is inspected for the third time. Any unacceptable waste found during any stages of the inspection will be removed, segregated, and shipped for disposal at a facility permitted to handle such waste.

The Department has, and will continue to perform routine inspections to ensure that all operations are in conformity with the approved permit application and the solid waste rules and regulations.

**COMMENT 7**

There is no proper fire equipment at the site.

### RESPONSE 7

LA R.S. 30: 2157 requires that a landfill must, at a minimum, have a letter from the local fire department certifying as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association. Industrial Pipe has this certification letter from the Belle Chasse Fire department in Appendix II-E of its permit application. In addition, Industrial Pipe includes fire extinguishers on all of its equipment and maintains a soil stockpile to be utilized to smother possible fires. The department has concluded that this sufficient precautions and equipment necessary to address fire control at the landfill.

### COMMENT 8

What is going to prevent trash from going into Hero Canal from the offloading of barges?

### RESPONSE 8

Industrial Pipe plans to employ netting or other mechanisms to prevent waste from falling into the canal during off loading procedures. Litter fences will also be employed along the edge of the bank to minimize the potential for wind blown debris to be driven into the canal.

### COMMENT 9

Why are they being allowed to expand the landfill?

### RESPONSE 9

Industrial Pipe is not "expanding" the landfill in any way. Neither the service area, permitted height, permitted footprint nor maximum daily disposal rate are being increased. The facility still has to abide by section 519.0 of their permit application which allows them a maximum of 1000 wet tons per day disposal in the landfill.

### COMMENT 10

The proposed barge is a transfer facility and the LDEQ regulations prohibit transfer stations on Hero Canal.

### RESPONSE 10

LAC 33:VII.115 defines transfer station as follows:

*Non-Processing Transfer Station*—a solid waste facility where solid waste is transferred from collection vehicles to other vehicles for transportation without processing.

*Transfer Station (Processing)*—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

The barge is not considered as a collection vehicle or solid waste facility. Therefore, this operation does not meet the definition of transfer station under the solid waste regulations.

**COMMENT 11**

Industrial Pipe's permit violates the Plaquemines Parish zoning laws.

**RESPONSE 11**

This issue was addressed during the permitting process for Industrial Pipe's standard solid waste permit, and reviewed by district and appellate court and will not be addressed again here.

**COMMENT 12**

The landfill owner has not been completely honest in submitting required information on permit applications in the past.

**RESPONSE 12**

This issue was addressed during the permitting process for Industrial Pipe's standard solid waste permit, and reviewed by district and appellate court and will not be addressed again here.

**COMMENT 13**

Woodwaste brought to the facility is subject to solid waste regulations and permit requirements notwithstanding LDAF best management program plan.

**RESPONSE 13**

Woodwaste is subject to the solid waste regulations. However, LAC 33:VII.303.A.10 allows for woodwaste to be beneficially used in accordance with a Best Management Practice Plan (BMP) approved in writing by the Department of Agriculture and submitted to the LDEQ. The facility has the appropriate BMP with regards to woodwaste and the associated regulatory requirements.

**COMMENT 14**

The permit modification process is flawed in that it is a major modification and not a minor modification. There is a change of service area of the landfill from its current area of Plaquemines, Jefferson, Orleans, and St. Bernard Parishes.

#### **RESPONSE 14**

The permit application lists the service area as unlimited with a primary service area of Plaquemines, Jefferson, Orleans, and St. Bernard Parishes. Therefore there is no change in the service area and hence not a major modification.

#### **COMMENT 15**

How will the wastes that are not permitted be returned to their original location? Who will be responsible for the return shipping costs?

#### **RESPONSE 15**

Unacceptable waste only has to be segregated and shipped to a landfill that is permitted to handle such material. It does not have to be returned to the original location. Industrial Pipe or the waste generator is responsible for any expenses incurred in the shipment of this unacceptable waste.

#### **COMMENT 16**

There are numerous seagulls and pelicans eating off of the wastes. There is something else going into this site as these birds do not eat C&D wastes.

#### **RESPONSE 16**

Since the issuance of the permit in 2004 there have been three (3) documented instances of birds in regard to landfill operations. On January 30, 2007, an inspection noted a list of unacceptable items and also a bird problem at the landfill. The facility received a compliance order for these issues. On January 30, 2007, a complaint was investigated regarding seagulls at the landfill. The inspection noted no egregious amounts of unacceptable waste. A *de minimus* quantity of food waste was mixed in with a load of C&D debris (soda bottles and left over lunches). No violations were cited. Lastly, on February 8, 2007, a complaint was investigated regarding odors at the landfill. Seagulls were noted as being present but no scavenging was occurring. No violations were cited.

#### **COMMENT 17**

What kind of limits are there on this permit for receiving C&D waste from out of state? How much waste can this company bring in? Are we going by the Louisiana definition of C&D which was modified post-Katrina to include anything in a flooded house? For example all of their herbicides, pesticides, bleaches, cleaning materials, batteries, and car tires.

### **RESPONSE 17**

The facility is limited to a total amount of C&D waste of 1000 wet tons per day as specified by section 519.O of their permit application. This amount applies whether the waste was generated in state or out of state. C&D waste being accepted by the landfill is defined as follows by LAC 33:VII.115 of the solid waste regulations:

*Construction/Demolition (C&D) Debris*—nonhazardous waste generally considered not water-soluble that is produced in the process of construction, remodeling, repair, renovation, or demolition of structures, including buildings of all types (both residential and nonresidential). Solid waste that is not *C&D debris* (even if resulting from the construction, remodeling, repair, renovation, or demolition of structures) includes, but is not limited to, *regulated asbestos-containing material (RACM)* as defined in LAC 33:III.5151.B, white goods, creosote-treated lumber, and any other item not an integral part of the structure.

### **COMMENT 18**

How high will this landfill grow? There is nothing in the modification that would limit it.

### **RESPONSE 18**

The height of the landfill is limited to 60 feet as specified in the conditions of the permit.

### **COMMENT 19**

Liquid wastes might be discharged from the barge to the canal or collect on the ground in the buffer zone between the Canal and the landfill site.

### **RESPONSE 19**

Liquid waste discharged from the barge to the canal or to the ground would be considered a violation of the LDEQ water quality regulations and violations would be handled through the enforcement process.

### **COMMENT 20**

Fuel products may be discharged into the canal from the unloading operations or from tugboats or other vessels on the site.

**RESPONSE 20**

Discharge of fuel or fuel products or discharge above de minimus quantities would be considered a violation of the LDEQ water quality regulations and would be handled through the enforcement process.

**COMMENT 21**

They will not be in compliance with their current permit because it requires all waste to come in through the "main gate".

**RESPONSE 21**

The current permit does require waste to be come in through the front gate. However, the approval of this permit modification allows for the facility to accept waste from a barge at a location other than the front gate.

**COMMENT 22**

As a result of hurricanes Katrina and Rita C&D landfill space has been challenged across southern Louisiana. The acceptance of out of state C&D debris is not appropriate based on ongoing waste disposal activities and should be denied by DEQ.

**RESPONSE 22**

The Interstate Commerce Clause of the United States Constitution prohibits states from discriminating between inter and intrastate commerce (including waste).

**COMMENT 23**

Plaquemines Parish government opposed the renewal for the contract for Industrial Pipe landfill and for the DEQ to consider expanding their operations is an insult to the local government.

**RESPONSE 23**

The renewal of contracts is not part of the permit process.

**COMMENT 24**

Bringing waste by barge may hamper hurricane protection projects planned by the Army Corps of Engineers. When flood walls are constructed water traffic is halted. This opens the door for the landfill owner to file a suit to be compensated for his loss of barge business; thus detain the flood wall project Tax payers will have to foot the bill if he is compensated for a business he is

attempting to start after having the knowledge of the hurricane protection plans. A delay in hurricane protection endangers communities all along Highway 23 in Plaquemines Parish.

**RESPONSE 24**

Compensation for property and business losses is an issue that Corps will take into consideration before designing for a hurricane protection system.

**COMMENT 25**

Other states have more regulations in place for this type of permit which greatly reduce the environmental impact of transporting waste by barge.

**RESPONSE 25**

Other states may have different circumstances that may require different standards and requirements but which are not relevant to Louisiana. The current Louisiana regulations are consistent with federal requirements and are sufficient to protect human health and the environment in Louisiana. The current regulations were revised in 2007 with the input from various stakeholders including environmental groups and the regulated community. Nevertheless, the LDEQ will welcome suggestions to enhance these regulations during the next revision.

**COMMENT 26**

By what authority did Industrial Pipe accept the barge load of waste earlier this year? Provide a timeline of the correspondence between the DEQ and Industrial Pipe concerning the barge issue from February 2008 through June 2008.

**RESPONSE 26**

Industrial Pipe contends that their permit, prior to modification, gave them authority to accept waste by barge. The LDEQ issued an enforcement action for alleged violations of the permit conditions by accepting waste at a location other than the front gate. All correspondence between the LDEQ and Industrial Pipe is part of the public record and can be accessed at the LDEQ records department.

**COMMENT 27**

Louisiana should pass laws banning any importation of waste from outside of our state to Louisiana.

**RESPONSE 27**

Laws banning the importation of solid waste from other states would have to pass a constitutional test involving the commerce clause of the United States Constitution. There have been court cases that have overturned these ban statutes as unconstitutional. Additionally, any laws regarding the banning of importation of solid wastes from other states is a function of the legislative branch of government, not the executive.

**COMMENT 28**

What is the amount of the fine levied for the illegal dumping from the barge and we also request a public hearing on that said fine and operations.

**RESPONSE 28**

There has been no fine levied against the facility concerning barge operations. That issue is currently in the enforcement process and has been appealed by the facility.

**COMMENT 29**

According to the terms of Industrial Pipe's permit, liquid wastes disposal is strictly prohibited. DEQ can not allow contaminated wastewater in the barge to be disposed of in the landfill cells.

**RESPONSE 29**

Liquid wastes are prohibited and the LDEQ will not allow waste waters to be disposed in a landfill cell.

**COMMENT 30**

The coastal use permit that Plaquemines Parish issued to Industrial Pipe does not allow the use of barges by Industrial Pipe for the operations for the landfill closure activities. DEQ cannot issue a permit modification for a waste barge mooring until Industrial Pipe has obtained the appropriate coastal use permit from Plaquemines Parish. The landfill also does not currently have the required local and federal permits for the barge mooring and offloading facility.

**RESPONSE 30**

Coastal use permits are regulated by the Department of Natural Resources, not the Department of Environmental Quality. However, this permit modification does not relieve the facility of its obligations to comply with other local, state, or federal regulations.

**COMMENT 31**

The mooring area from the barge unloading operations is too shallow to allow the barge to be properly located for unloading operations. Currently the barge has to be partially unloaded to locate the barge appropriately for unloading operations in the area of the landfill where the cell is located. Therefore the canal must be dredged and in order to do that a Corps of Engineer permit is required. DEQ must deny the modification due to the lack of this permit.

**RESPONSE 31**

Dredging of the canal is a Corps of Engineers issue. The modification merely authorizes the use of barge delivery. If dredging is necessary to satisfactorily accomplish this purpose, the facility will be required to obtain a 404 permit. It does not appear that dredging will be necessary as one barge has been offloaded without incident. However, this modification does not relieve the facility of its obligations to comply with other local, state, or federal regulations.

**COMMENT 32**

There is no 50 foot buffer zone. The landfill is on the ditch line.

**RESPONSE 32**

In the April 8, 2008, incident report based on a complaint about buffer zone violations, the inspector stated that she measured the buffer zone at approximately 59 feet.