Attachment A

HB 1119

From: **TOM AND PATTI CRONK** (ccigj@msn.com)
Sent: Wed 3/07/12 4:10 PM
To: larry.liston.house@state.co.us
Cc: DON CORAM (dlcoram@msn.com); STEVE KING (steve.king.senate@state.co.us)

Representative Liston,

I urge you to forward HB 1119 on through your committee for consideration by the Legislature. Our business has been affected by fines levied through CDPHE Air Quality which I feel were assessed retroactively and hence, illegally. A brief history of this issue follows.

As CB Industries-Delta Inc. we own a septage, sand trap, and grease trap disposal facility in Delta County. Our facility has been permitted since 2003 through Delta County and CDPHE Solid and Hazardous Waste Division. Part of our original permit includes the landfarming treatment of petroleum impacted soils. As part of our original 2003 permit, CDPHE Air Quality was contacted to address the need of an Air Pollutant Emissions Notice (APEN) permit. It was determined that an APEN was not necessary for our operations at that time.

In August, 2010, CB Industries was notified by CDPHE Air Quality that the facility had been in violation of the "Clean Air Act" throughout its lifetime of operations and was directed to obtain an APEN permit from the Air Quality Division. Apparently, the Air Quality Division had decided that petroleum contaminated soil (PCS) landfarm treatment operations and beneficial use as daily cover at landfills needed to be regulated under the Clean Air Act and began issuing notices of violation (NOV) and fines retroactively to existing facilities. It should be noted that previous to this initiative, the use of PCS for daily landfill cover was considered a beneficial use and actually recommended and encouraged. The Air Quality NOV was issued to CB Industries in spite of the fact that CB Industries had submitted an APEN application as part of the original 2003 permit application and Air Quality had determined an APEN was not necessary. It should also be pointed out that the "Clean Air Act" was promulgated in 1970 and the alleged violation was not a result of new regulations but a subjective extension of an existing law to a new application. CB Industries immediately applied for an APEN permit and was assured by Air Quality personnel that because of our cooperation we would be treated fairly by the Air Quality Division although a "fine" was imminent.

On August 30, 2011, CB Industries was granted an APEN permit from Air Quality along with an invoice for $1,535.12 for review fees and an invoice of $1,950.00 as a fine for not obtaining the permit prior to operations in 2003. The fine was levied in spite of the fact that CB Industries had applied for an APEN as part of the original 2003 permit and neither CDPHE nor CB Industries was aware of any Air Quality infraction until the 2010 interpretation by the Air Quality Division. Additionally, it should be noted that no environmental air pollution of any kind occurred or was even alleged to have occurred. The violations and fines were simply levied for not having the proper paper work and permits in place to operate.

I believe this experience is ridiculous at best and illegal at worst. I believe we may have a strong legal case against CDPHE but who has enough money to take legal action against the State. This situation is terrifying to many businesses because, eventhough the $3,500 costs

associated with this action are not enough to break us, the thought of what kind of fines and fees the State regulatory agencies may come up with tomorrow is unsettling.

Thank you for your consideration,

Tom Cronk