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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD DEC 10 2003

STATE OF ILLINOIS  
Pollution Control Board

BYRON SANDBERG, )

Petitioner, )

vs. )

CITY OF KANKAKEE, ILLINOIS, THE CITY )  
OF KANKAKEE, ILLINOIS CITY COUNCIL, )  
TOWN AND COUNTRY UTILITIES, INC., )  
and KANKAKEE REGIONAL LANDFILL, )  
L.L.C., )

Respondents. )

Case No. PCB 04-33

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WASTE MANAGEMENT OF ILLINOIS, )  
INC., )

Petitioner, )

vs. )

THE CITY OF KANKAKEE, ILLINOIS CITY )  
COUNCIL, TOWN AND COUNTRY )  
UTILITIES, INC., and KANKAKEE )  
REGIONAL LANDFILL, L.L.C., )

Respondents. )

Case No. PCB 04-34

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COUNTY OF KANKAKEE, ILLINOIS and )  
EDWARD D. SMITH, KANKAKEE COUNTY )  
STATE'S ATTORNEY, )

Petitioners, )

vs. )

CITY OF KANKAKEE, ILLINOIS, THE CITY )  
OF KANKAKEE, ILLINOIS CITY COUNCIL, )  
TOWN AND COUNTRY UTILITIES, INC., )  
and KANKAKEE REGIONAL LANDFILL, )  
L.L.C., )

Respondents. )

Case No. PCB 04-35

**MOTION TO DISQUALIFY CLAIRE MANNING**

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and EDWARD D.  
STATE OF ILLINOIS

NOW COME, Respondents, COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, and for their Motion to Disqualify

**Pollution Control Board**

Claire Manning, state as follows:

1. Attorney Manning, former Chairman of the Illinois Pollution Control Board from 1993 to 2002, is attempting to appear as counsel for Town and Country Utilities in this proceeding.

2. The Respondents' reply upon and incorporated as though fully cited verbatim herein the Respondents' Response and Objections to Attorney Manning's Request Concerning Appearance, attached hereto as Exhibit A.

3. Pursuant to this Board's Procedural Rule 101.112 (35 Ill. Adm. Code 101.112) and this Board's recent decision in *People v. Skokie Valley Asphalt, Co., Inc.*, PCB 96-98 (Oct. 16, 2003), this Board must find that Attorney Claire Manning is disqualified from appearing in this proceeding because Attorney Manning served as Chairman of the Illinois Pollution Control Board while cases PCB 03-31, 03-33 and 03-35 were pending before the Board, and she issued substantive rulings in those cases. See *County of Kankakee v. City of Kankakee*, PCB 03-31, 03-33, 03-35 (Oct. 3, 2002); *County of Kankakee v. City of Kankakee*, PCB 03-31, 03-33, 03-35 (Nov. 7, 2002).

4. It would be especially improper for Ms. Manning to represent the Applicant in this case because one of the primary issues is whether the current application is substantially the same as the application at issue in PCB 03-31, 33, and 35. Not only was Ms. Manning substantially involved in the prior proceeding, the content of the application reviewed in that proceeding is highly relevant to the instant case. Therefore, it would be clearly improper for Ms. Manning to represent the Applicant in this case.


WHEREFORE, , Respondents, COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, respectfully requests that Court find that Attorney Claire Manning is disqualified from representing Town and Country Utilities, Inc. in this proceeding before the Illinois Pollution Control Board.

Dated: 12-8-03

Respectfully Submitted,

On behalf of the COUNTY OF KANKAKEE,  
ILLINOIS, and EDWARD D. SMITH,  
KANKAKEE COUNTY STATE'S  
ATTORNEY,

By: Hinshaw & Culbertson

  
Richard S. Porter  
One of Attorneys

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