

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAR 09 2009

STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS,)
INC. and KENDALL LAND AND)
CATTLE, LLC)

Petitioner)

PCB 09-43
(Pollution Control Facility Siting Appeal)

vs)

COUNTY BOARD OF KENDALL)
COUNTY)

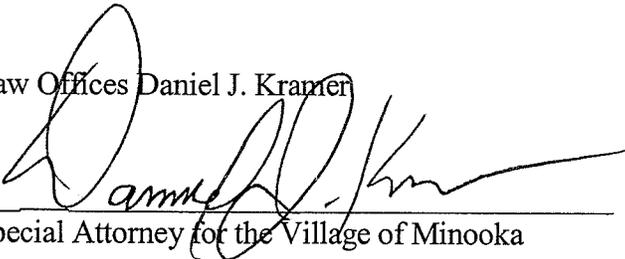
NOTICE OF FILING

TO: *See attached service list.*

PLEASE TAKE NOTICE that on this 6th day of March, 2009; I filed with the Clerk of the Illinois Pollution Control Board, Village of Minooka's Response to Petitioners' Objection to the Motion for Leave to File Amicus Brief.

Dated: March 6, 2009

Law Offices Daniel J. Kramer

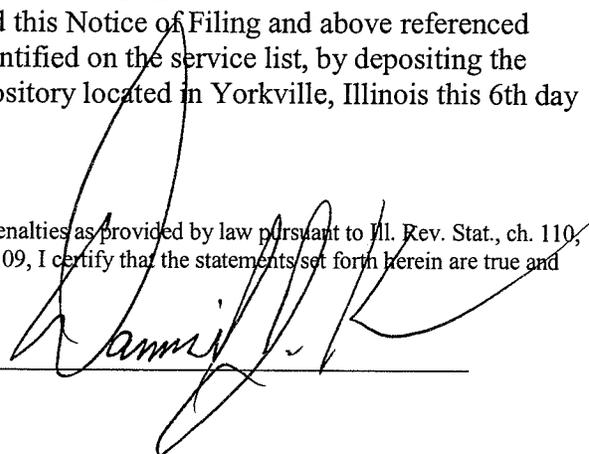

Special Attorney for the Village of Minooka

Law Offices of Daniel J. Kramer
1107A South Bridge St.
Yorkville, Illinois 60560
Phone: (630) 553-9500
Facsimile: (630) 553-5764

CERTIFICATE OF SERVICE

I, Daniel J. Kramer, on oath state that I served this Notice of Filing and above referenced document on the persons and at their addresses as identified on the service list, by depositing the documents, postage pre-paid, into the U.S. Mail Depository located in Yorkville, Illinois this 6th day of March, 2009.

Under penalties as provided by law pursuant to Ill. Rev. Stat., ch. 110, Sect. 1-109, I certify that the statements set forth herein are true and correct.



SERVICE LIST

Donald J. Moran Pederson & Houpt 161 N. Clark St., Ste. 3100 Chicago, IL 60601-3224 312-261-2149 312-261-1149 - fax	Attorney Eric C. Weis Kendall County State's Attorney Kendall County Courthouse 807 John St. Yorkville, IL 60560 630-553-4157 630-553-4204 - fax
Ms. Renetta Mickelson Kendall County Clerk 111 Fox St. Yorkville, IL 60560	James F. McCluskey James S. Harkness Momkus, McCluskey, LLC 1001 Warrenville Rd., Ste. 500 Lisle, IL 60532 630-434-0400 630-434-0444 - fax
Bradley P. Halloran Hearing Officer Illinois Pollution Control Board James R. Thompson Center, Ste. 11-500 100 W. Randolph Street Chicago, IL 60601 Phone:312-814-8917	John T. Therriault Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Street, Ste. 11-500 Chicago, IL 60601

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAR 09 2009

STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS,)
INC. and KENDALL LAND AND)
CATTLE, LLC)

Petitioner)

PCB 09-43

(Pollution Control Facility Siting Appeal)

vs)

COUNTY BOARD OF KENDALL)
COUNTY)

**VILLAGE OF MINOOKA'S RESPONSE TO PETITIONERS' OBJECTION TO
THE MOTION FOR LEAVE TO FILE AMICUS BRIEF**

NOWCOMES, THE VILLAGE OF MINOOKA, by and through its Attorneys,
the Law Offices of Daniel J. Kramer who in response to the Petitioners' Objection to the
Motion for Leave to File Amicus Brief by the Village of Minooka states and alleges as
follows:

RESPONSE TO ISSUES PRESENTED IN PETITION FOR REVIEW

1. That on or around December 24, 2008 Petitioner filed with the Illinois
Pollution Control Board a Petition for Hearing to Contest Site Location
Denial pursuant to Section 40.1(a) of the Illinois Environmental
Protection Act (415 ILCS 5/40.1).
2. That on or around February 9, 2009 the Law Office of Daniel J. Kramer
timely filed an Appearance and a Motion for Leave to File Amicus
Brief on behalf of the Village of Minooka and add the Village of
Minooka to the Service List for the same.

3. That the Petitioners' Petition for Hearing to Contest Site Location Denial failed to allege with any specificity the grounds for Appeal, including any specific allegations of fundamental unfairness or the manner in which the decision rendered by the Kendall County Board as to Criterion (ii) and Criterion (iii) was against the manifest weight of the evidence in accordance with Section 39.2 of the Act. (415 ILCS 5/39.2)
4. As a result of the Petitioners' conclusory statement, on or around February 17, 2009 the County of Kendall filed a Notice of Demand for a Bill of Particulars as to the allegations contained in Petitioners' Petition for Hearing to Contest Site Location Denial.
5. That until such time as the Demand for Bill of Particulars is answered by the Petitioners, a Response from the Village of Minooka to the Petitioners' Objection to the Motion for Leave to File Amicus Brief by the Village of Minooka is premature.
6. That pursuant to Section 101.110(c) of the Illinois Administrative Code; an Amicus Brief may be filed in any adjudicatory proceeding by any interested person provided permission is granted by the Board and the Amicus Brief will not delay the Hearing Process (35 Ill. Adm. Code 101.110(c)).
7. Section 101.404(d)(2) and 101.402(d)(3) of the Administrative Code grants the Board the authority to permit any person to intervene in any adjudicatory proceeding if the person may be materially prejudiced absent intervention; or the person is so situated that the person may be

adversely affected by a final Board Order. (35 Ill.Adm.Code 101.404(d)(2) and 35 Ill.Adm.Code 101.404(d)(3).

8. That the Village of Minooka owns and controls the portable supply of water to its residents as a municipal service.
9. That the interest of the Village of Minooka in preserving the portable water and portable water service to its residents is separate and distinct from the County of Kendall's interest in protecting the public health, safety and welfare under Criterion (ii). The Village of Minooka as the supplier of portable water to its residents is so situated that they may be adversely affected by a final Board Order.
10. The Village of Minooka through its Expert John Bogner presented and propounded testimony and proof at Hearing regarding the Petitioners' evidence submitted under Criterion (ii) whereas the County of Kendall offered no expert testimony, no written reports relating to statutory Criterion (ii).

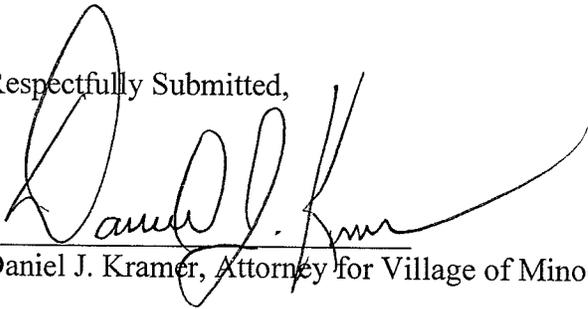
CONCLUSION

That the Village of Minooka contends that until such time as the Notice of Bill of Particulars is answered by the Petitioner it can not fully respond to the Petitioners' Objection to the Motion for Leave to file Amicus Brief by the Village of Minooka and would request Leave to fully respond to the Petitioners' Objection within seven (7) days after receipt of the Answer for the Demand for Bill of Particulars.

In the alternative the Village of Minooka contends that it has a duty to protect the health, safety, and welfare of their residents and within their Planning Area outside of the

Village of Minooka limits and may be adversely by an Illinois Pollution Control Board Decision, furthermore, the Village of Minooka's Request for Leave to File and Amicus Brief is timely and would cause no undo delay nor prejudice the proceeding should the Board grant the Village of Minooka's Petition to file an Amicus Brief.

Respectfully Submitted,



Daniel J. Kramer
Daniel J. Kramer, Attorney for Village of Minooka