

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

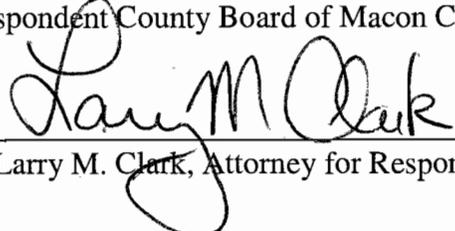
VEOLIA ES VALLEY VIEW)
VIEW LANDVILL, INC.)
)
Petitioner,)
)
vs.)
)
COUNTY BOARD OF)
MACON COUNTY, ILLINOIS,)
)
Respondent.)

PCB 10-31
(Pollution Control Facility Siting Appeal)

NOTICE OF FILING

To: Gerald P. Callaghan
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606

Please take notice that on the 28th day of June, 2010 we have filed with the Office of the Clerk of the Pollution Control Board our Brief of Respondent County Board of Macon County, a copy of which is hereby served upon you.



Larry M. Clark, Attorney for Respondent

Dated this 28th day of June, 2010

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BRIEF OF RESPONDENT COUNTY BOARD OF MACON COUNTY

Respondent, County Board of Macon County, Illinois (“County”) submits this brief in response to the Petitioner Veolia ES Valley Landfill, Inc.’s (“Veolia”) appeal of five siting conditions imposed by the County in granting local siting approval to Veolia for the expansion of their landfill located in unincorporated Macon County, Illinois. For the following reasons the County requests that the five imposed conditions be upheld.

1. INTRODUCTION

This appeal arises out of a Request for Local Siting Application filed by Veolia with the County on May 1, 2009. The Request proposed both a vertical and horizontal expansion of an existing landfill. Veolia also proposed to excavate and relocate a portion of the existing landfill. The proposed vertical expansion would take place over four distinct areas of the existing landfill, Sections I, II, III and IV. A portion of Section I, also considered Unit I is the oldest unit and the base liner is an “in situ” liner that is there is no re-compacted clay or artificial liner. Section II was constructed next and operated as a trench fill method, meaning the cell was excavated to the base liner grades, and the soils were not re-compacted, however, the base liner was supposed to

include a 10-foot thick clay layer. Section III is permitted to be underlain by a 10-foot in-situ clay liner which is supposed to have a maximum hydraulic conductivity of 0.0000001 centimeter per second (10⁻⁷ cm/s). Section IV has a re-compacted clay liner along with a HDPE artificial liner. The horizontal expansion is proposed to the north side of the existing landfill and will have both an artificial and re-compacted clay liner (fully compliant 35 Ill.Admin.Code 811 liner). The area proposed to be excavated is the southeast portion of the existing landfill. It is proposed to be excavated and re-located to either within the existing sited airspace or in the expansion airspace over a period of approximately 2 years.

The County retained the services of an environmental engineering firm and attorney to work in conjunction with the Macon County Solid Waste Department to review the Application, participate in the public hearings and provide a recommendation to the County Board. Such a recommendation was filed as public comment (C3-21 through 39). Veolia filed its own Public Comment (C3-40 through 60) as well as a response to the County's Review Team (C3-7 through 20) and the County Board had the opportunity to review and discuss same (C6-10 through 58).

The five appealed conditions are as follows:

8. Perpetual Pumping. The gradient control system located inside of the slurry wall and well MS-13 (or its replacements) shall be pumped for a minimum of 100 years unless otherwise released from this obligation by the Macon County Board.

9. Financial Assurance. A perpetual care trust fund should be established to address the long term pumping required at this site, and the rate of \$0.20 per ton or an annual payment of \$50,000, whichever is greater, shall be placed into such fund during the 28 years of landfill operation. This fund is to be used for the required pumping from year 58 (at the end of the 30-year post-closure) until year 128 as predicted in the GIA (the GIA models 100 years following closure). More specifically, assuming a 2011 start date, the expected closure is in 2039 and the GIA pumping will run to 2139). Alternately this requirement may be met by the inclusion of such costs, for the specified period of time (year 2139), in the applicant's Financial Assurance for Closure and Post-Closure Costs as identified in Subpart F: Financial Assurance for Closure and Post-Closure Care (35 Ill.Admin.Code 807.600 *et seq*). If the Illinois EPA proposes to release the applicant's

Financial Assurance, then the applicant (or their successor) shall either maintain such financial assurance as identified above or shall petition the Macon County Board to release such financial assurance requirements.

11. Leachate elevations. The Applicants shall install and operate, at a minimum, the proposed number of leachate extraction wells and other leachate collection points to reduce the leachate elevation in Sections 1, 2 and 3 to a height no greater than the leachate elevations illustrated in the GIA model for future conditions (reference Hydrogeologic Characterization Report, Volume IV, Attachment 12b, Drawing Sheet 1, Predictive Model Landfill Potentiometric Contours) unless the Applicant can demonstrate that higher levels are acceptable by providing a revised GIA model to the County and Illinois EPA for review and approval. Leachate elevations shall be measured from at least 3 leachate piezometers, installed in each of Sections 1, 2 and 3 (located in the northern, central and southern portions), at points equidistant from leachate extraction points to minimize the influence of leachate extraction wells on the measured leachate elevation. Leachate elevation and leachate extraction well operation data shall be recorded at least quarterly and be readily available for County review.

19. Gradient Control System. The Gradient Control System to be used to de-water the horizontal expansion shall not be dismantled at the point in time when sufficient waste has been placed atop the base liner to discontinue its use, but shall be maintained such that a sample of the groundwater in the system can be extracted and tested once per year. The testing parameters shall be at least six (6) common leachate indicator parameters.

27. Visual Barriers. The development of the landfill shall be built in such a manner that perimeter and operational berms shall be placed to minimize view of the landfill operations and to assist in minimizing possible offsite impact. Perimeter berms shall be vegetated immediately after they are constructed. The east perimeter berm shall be constructed prior to waste exhumation and other operations that expose waste within 500 feet of the east property boundary. The east perimeter berm shall be no less than 8 feet in height and shall extend, at a minimum, from point 5800 N to point 4800 N shown on Drawing A4, and shall be built wide enough to support vegetation as described on the application's landscape plan. Operational berms shall be used such that waste is not seen on the west, north or east. In areas where there is insufficient room to construct a separate berm, the elevated roadway may be horizontally extended and the plantings may be installed adjacent to the roadway surface or upon the sideslopes of such roadway/berm. The elevation of such a combination roadway/berm shall be 8 feet above the adjacent grade except where existing localized conditions are prohibitive and such determination is approved by the Macon County Solid Waste Department.

II. STANDARD OF REVIEW

The standard of review to be exercised by the Pollution Control Board is whether the decision of the County Board is contrary to the manifest weight of the evidence. *Waste Management v. Pollution Control Board*, (1988), 175 Ill.App.3d 1023, 125 Ill. Dec. 524, 530 N.E.2d 682. A decision is against the manifest weight of the evidence only if the opposite result is clearly evident, plain or indisputable from a review of the evidence. *Tate v Illinois Pollution Control Board* (1989), 188 Ill.App.3d 994, 1022, 136 Ill.Dec 401, 420, 544 N.E.2d, 1176, 1195.

The County has authority to consider technical details relating to the design and operation of a landfill. They are not prohibited from imposing “technical” conditions to “accomplish the purposes” of Section 39.2 of the Environmental Protection Act. *County of Lake v. Ill. Pollution Control Board* (1983); 120 Ill.App.3d 89, 75 Ill.Dec 750, 457 N.E.2d 1309; *City of East Peoria v. Pollution Control Board*, (1983) 117 Ill.App.3d 673, 72 Ill.Dec 682, 452 N.E.2d 1378.

Public Comment was filed by the County’s Review Team, Veolia and citizens. The recommendations by the County Review Team was controverted in Veolia’s own Public Comment filing. The County could appropriately consider the recommendations of the County Review Team, although they were not obligated to do so. *Fairview Area Citizens v Illinois Pollution Control Board* (1990) 198 Ill.App.3d 541, 144 Ill.Dec. 659, 555 N.E.2d, 1178.

Finally the County is not barred from using common sense and a pragmatic approach towards making their decision, findings and imposing conditions. They are not required to consider only the record and ignoring their own experiences or common sense in making findings of fact, granting or denying approval and imposition of conditions

III. ARGUMENT

The conditions proposed by the County Review team, five of which are the subject of this appeal, were made within 30 days of the last day of the public hearing and therefore were submitted as public comment. Although Veolia states that they were unable to provide testimony in response to the proposed conditions, that is always the case when information is submitted at the time of public comment (ie. within 30 days of the close of the public hearing). They did in fact offer modifications to the proposed conditions, some of which were ultimately adopted by the County Board of Macon County. The process of a local siting hearing is not one of adjudicatory rights and privileges granted at a trial, but it is a public hearing. None of the parties have an absolute right to cross examine individuals when their input is limited to oral or written public comment. The recommendations made by the County Review Team were done during the course of the 30 day public comment period and Veolia was given the opportunity to respond to those proposed conditions, and did so respond.

A. Condition 8

Condition 8 states as follows:

8. Perpetual Pumping. The gradient control system located inside of the slurry wall and well MS-13 (or its replacements) shall be pumped for a minimum of 100 years unless otherwise released from this obligation by the Macon County Board.

Veolia has objected to this condition primarily based upon the fact that this condition could conflict with the IEPA permit issued for the Expansion of the existing landfill in that IEPA could order Veolia to cease the pumping of the gradient control system at some point prior to the end of the 100 years that Veolia has proposed to operate the pumps. It is clear that this site is a troubled site. Upon acquisition of this landfill, Veolia was forced to install a number of slurry walls around the east and southeast sides of the landfill to address leachate migration issues (C2-

213). They have proposed to pump the gradient control system for a period of 100 years. (C2-220 & C2-238). Their Groundwater Impact Assessment (“GIA”) is based upon pumping of the gradient control system for 100 years. (C2-226) It is hard to fathom how or why the IEPA would allow Veolia to cease pumping. Veolia would have to show that they could still meet the GIA requirements of not impacting the groundwater 100 feet from the edge of waste.

Regardless of whether or not this condition remains intact as proposed by the County, Veolia would have to apply to the IEPA for a modification of their operating permit in order to stop their pumping. They would have to show that either the GIA (or its future successor) demonstrates that there will be no impact to the groundwater 100 feet from the waste boundary in 100 years. If Veolia can show this lack of impact to the IEPA at some point in the future, why would the Macon County Board refuse to waive the same requirement? The County is not proposing to subvert the IEPA process, but only to be allowed to meaningfully participate in any proposed changes to the operation of the landfill in the future, that would change the basis upon which the County granted approval.

Since July, 1999, this site has accumulated a number of violations (C1-41 through 47). Although some of the violations related to the operation of the landfill prior to or as a result of the operation of the landfill prior to Veolia’s acquisition, a number of violations have and been attributed to the landfill by its current operator, Veolia. Other Veolia owned landfills in Illinois, Indiana and Missouri appear also to have operational issues. (C1-47 through 53). The County has every right to consider this information when determining whether or not to grant local siting approval under the Health, Safety and Welfare criterion and to impose appropriate conditions thereto.

Based upon the historically poor performance of this landfill, it seems reasonable that the County would want to maintain some control over the operation of the landfill during the time proposed by Veolia. It is Veolia that has proposed to operate the pumping of the gradient control system for 100 years. If they want to change that process at some point in the future, why should they be allowed to do so if the basis for this approval is, in part, based upon their representation that they would continue to pump for 100 years, unless they can demonstrate to the County that the stoppage of pumping is safe.

B. Condition 9

Condition 9 of the County's siting approval states as follows:

9. Financial Assurance. A perpetual care trust fund should be established to address the long term pumping required at this site, and the rate of \$0.20 per ton or an annual payment of \$50,000, whichever is greater, shall be placed into such fund during the 28 years of landfill operation. This fund is to be used for the required pumping from year 58 (at the end of the 30-year post-closure) until year 128 as predicted in the GIA (the GIA models 100 years following closure). More specifically, assuming a 2011 start date, the expected closure is in 2039 and the GIA pumping will run to 2139). Alternately this requirement may be met by the inclusion of such costs, for the specified period of time (year 2139), in the applicant's Financial Assurance for Closure and Post-Closure Costs as identified in Subpart F: Financial Assurance for Closure and Post-Closure Care (35 Ill.Admin.Code 807.600 *et seq*). If the Illinois EPA proposes to release the applicant's Financial Assurance, then the applicant (or their successor) shall either maintain such financial assurance as identified above or shall petition the Macon County Board to release such financial assurance requirements.

Veolia has objected to this Condition on several grounds. They first state that the *Browning Ferris Industries of Illinois v. Lake County Board of Supervisors*, PCB 82-101, slip op. at 4 (Dec. 2, 1982) prohibits the imposition of financial responsibility because they do not have the "legislative authorization" to do so. The condition, however, provides alternatives to that requirement in that it indicated that Veolia could meet their financial obligation by including these costs in their Financial Assurance for Closure and Post-Closure Care (85 Ill.Admin.Code

807.600 *et seq*). Because Veolia's proposal and their GIA was based upon the concept of continuing the pumping for 100 years after closure, some provision must be made to provide for the financial wherewithal to accomplish that task and continue to provide an assurance of safety to the health and welfare of the surrounding citizens. The County was and is not opposed to that financial assurance being included within the Financial Assurance for Post-Closure Care routinely demonstrated by the applicant, however, these costs need to be explicitly identified as operations beyond the 30-year period, and thus separately listed with that financial assurance. Should Veolia include those costs, the County would be satisfied. This is only what the Illinois Administrative Code requires. By proposing that Veolia could set up a perpetual care fund, the County merely gives Veolia an alternative to the financial assurances being provided through the formal Post-Closure Care plan. This type of perpetual care fund is not the first of its kind proposed for landfills for the period following the post-closure care period described in 35 Ill. Adm. Code Section 811. The regulations are silent on how to deal with the period beyond the post-closure care period. If IEPA (or other applicable regulatory agency extends the post-closure period to and including 100 years after the 30 year post-closure period, that would obviously address the County's concerns.

The condition proposes that alternately Veolia create a perpetual care fund that is created by of \$0.20 per ton or \$50,000.00 per year. This amount was based in part upon Veolia's estimates for premature closure figures for maintenance of the gradient control system and the gradient control effluent treatment system line items as contained in the application. (C1-1519).

The last sentence of the condition provides that if IEPA proposes to release the applicant (or their successor) from its obligation to maintain a funding source for site maintenance, then the applicant is still required to maintain a funding source that can be used for

this pumping maintenance beyond the post closure care period. This is a common sense clause that establishes a dedicated fund that accumulates over a long period of time and is returned to the applicant in total if post post-closure care needs are non-existent. There are three time periods in question, the closure care period; the post closure care period; and the period beyond the post-closure care period, or the post post-closure care period. The applicant must already maintain financial assurance for closure and the post closure care periods. Since pumping goes beyond what the Board anticipated in its regulations (beyond the 30 years after the closure of the landfill), in its normal financial assurance fund requirements, the County must establish an avenue to cover those costs to be assured that Veolia has set aside sufficient resources to do what they have said they will do. The County is allowing the applicant to cover such costs with a dedicated fund (preferred) or by a method using its normal financial assurance instruments currently employed. Either way, the County seeks a method that requires the applicant to meet its long-term responsibilities.

C. Condition 11

Condition 11 to the County's siting approval provides as follows:

11. Leachate Elevations.

The Applicants shall install and operate, at a minimum, the proposed number of leachate extraction wells and other leachate collection points to reduce the leachate elevation in Sections 1, 2 and 3 to a height no greater than the leachate elevations illustrated in the GIA model for future conditions (reference Hydrogeologic Characterization Report, Volume IV, Attachment 12b, Drawing Sheet 1, Predictive Model Landfill Potentiometric Contours) unless the Applicant can demonstrate that higher levels are acceptable by providing a revised GIA model to the County and Illinois EPA for review and approval. Leachate elevations shall be measured from at least 3 leachate piezometers, installed in each of Sections 1, 2 and 3 (located in the northern, central and southern portions), at points equidistant from leachate extraction points to minimize the influence of leachate extraction wells on the measured leachate elevation. Leachate elevation and leachate extraction well operation data shall be recorded at least quarterly and be readily available for County review.

Veolia objects to this condition because they allege that it is not supported by the record. The County believes it is supported by the record as follows. The levels of leachate in Sections I, II and III of the existing landfill vary significantly, and are much greater than allowed in today's landfills. Information from the Hydrogeologic Characterization Report Volume 3 of 4 prepared by EIL (C1-47251) reports leachate head in the existing units. In Section I, the maximum leachate level was 14 feet at well EW-01R (C1-47255). In Section II, the maximum leachate head was approximately 22 feet at well EW-11R(C1-47256), while the typical leachate heads were in the 10 to 15-foot range. In Section III, the maximum leachate head was 38 feet at well L312 (C1-47260). The northern part of Section I is proposed to be overlain by a vertical expansion. The existing Section I has an "in situ" liner. An "in situ" liner means that the landfill developer dug down to a certain depth and then started to deposit waste into the hole. There is no re-compacted clay liner or any artificial liner as there is proposed for the horizontal expansion of this landfill. Section II does not have a recompacted clay liner of a required hydraulic conductivity. Veolia proposes to keep the leachate at the level they measured at the bottom of the leachate extraction wells after turning off the pumps and allowing the well levels to stabilize. This is the level that they used for their data input for the GIA. Thus this level of leachate is vitally important to Veolia's determination of "no impact" at 100 years post-closure at 100 feet from the waste limits. The only way to absolutely "mimic" the measurement process that was previously used would be to turn off the pumps and re-measure the levels. This has never been considered to be an optimum method of measurement by anyone. The County's Review team proposes that the levels of leachate in the various sections of the existing landfill be maintained at or below the levels used for the GIA determination. The recommendation was that 3 leachate piezometers be installed in each of Sections I, II and III to measure the height of the leachate in

these sections so that Veolia could adequately maintain the level of leachate at or below the levels used for the GIA. These piezometers would be located equi-distant from the leachate extraction wells so as to provide an accurate level, thereby compensating for the “cone of depression” created by pumping water (or other liquid) from the ground or landfill. (C2-222 & C2-241). Section III also has an in-situ clay liner system, with 2 pipes lain horizontally at the base of the landfill. However all leachate is proposed to be removed via leachate extraction wells, just like Sections I and II.

Furthermore it is uncontroverted that additional leachate will be generated when the “intermediate cover” is removed from Sections I, II and III and filling begins anew for the vertical expansion. (C1 -1045).

Veolia opined that the piezometers would be extremely hard to maintain and that they could not be installed with any accuracy. However even if each well had to be periodically replaced so as to maintain its integrity, this should not be an overbearing burden on Veolia in that only 9 total piezometer wells would be required to be installed (three each in Sections I, II and III). If one or even all nine wells had to be re-installed over their life-time, it would appear to be no more onorous that the replacement of an extraction well, which Veolia proposes to do. In fact Veolia anticipate replacing 27 extraction wells located within Sections I, II and III. (C2-173-4). Furthermore it is somewhat ironic that Veolia bemoans the accuracy of piezometers in that they have relied upon the results of piezometers for measurements in their Hydrogeologic Report (C1-45218). Piezometers have been installed at this site for years (C1-45189 and C1-12872) and are used to satisfy the requirements of 35 Ill.Admin.Code 811.315(d)(1)(D) and 35 Ill.Admin.Code 811.318(d)(8) (C1-45191-2).

Finally Veolia argues that the installation of piezometers could conflict with the IEPA's permit for expansion. This argument is without merit. Veolia's entire application is subject to IEPA's approval. If one or more construction detail(s) are required to be changed by IEPA, does that mean that Veolia would have to come back before the Macon County Board for "re-approval"? If that were the practical effect of any change to an application for local siting approval, then no landfill would ever get siting approval in the State of Illinois.

D. Condition 19

Condition 19 to the County's siting approval states as follows:

19. Gradient Control System. The Gradient Control System to be used to de-water the horizontal expansion shall not be dismantled at the point in time when sufficient waste has been placed atop the base liner to discontinue its use, but shall be maintained such that a sample of the groundwater in the system can be extracted and tested once per year. The testing parameters shall be at least six (6) common leachate indicator parameters.

Veolia has objected to this Condition alleging that it is "vague and standardless". They represent that they do not have any issues with the maintenance of the gradient control system (this one is used to "de-water" the ground for the horizontal expansion as opposed to the one to be in place for 100 years and located at a different part of the landfill), but do not want to test the extracted water because there are no particulars regarding the type of testing to be done or the leachate indicator parameters that should be tested. Leachate parameters for this site may vary from various other sites. The condition was purposely left flexible so as to allow Veolia to adapt its testing program of one sample/year to parameters that would provide useful information. Veolia cites the *Browning Ferris of Illinois* case as supportive of their position that these parameters are too vague. The Board in *Browning Ferris* struck the testing of "unspecified"

pollutants. The Macon County Board did not specify any “unspecified” pollutants, but rather structured a condition that is very site specific. “Leachate parameters” has a very specific meaning in both senses: first that they are related to leachate and second because they are related to site specific information. Veolia has accumulated leachate data for this landfill over numerous years and thus has the best representation of the parameters present in this site’s leachate that will be the most appropriate to measure. The County prefers Veolia to identify those parameters most likely indicative of an early leachate containment system failure, which is undoubtedly the goal of Veolia’s groundwater monitoring program. Veolia has expressed concern over measurements of parameters that they would consider parameters already in groundwater (background) and thus would give a false indication of a problem. By allowing Veolia the role of selecting parameters, the County can be assured that this false indicator issue is avoided. Veolia clearly knows and understands the use of the terminology “leachate parameters”.

The County imposed this condition to provide for an “early warning” signal to Veolia. If the testing results in steadily increasing leachate parameter numbers, it will be an indication to Veolia that they may have a leak under the horizontal expansion portion of the landfill or alternately that leachate is migrating from the bottom of the old portions of the landfill. Either way, at a nominal cost of testing six common leachate parameters once per year, the information could provide the earliest of early warning signals. Because of the checkered past of this landfill and the fact that all residential wells are located to the north side of the existing landfill , such an early warning system (located between the old portions of the landfill and the residential wells) provides an additional safeguard for the County and a level of comfort to the residents living closest to the landfill.

Veolia also argues that there is no evidence of “necessity” to test this groundwater. The County has the right to impose reasonable conditions upon local siting approval. This is one of the most reasonable conditions in that it can be implemented at a nominal cost and could provide information of potential groundwater impacts at the earliest possible point in time. It does not require Veolia to take action or respond in any way other than to test for leachate parameters and provide the test data to the County. At the hearing several people voiced their concern over groundwater or water well contamination (C2-303, 305, and 329). Just because the IEPA may also require testing of groundwater through their own standards, it does not mean that the County is prohibited from imposing such a condition where it is reasonably related to the health and welfare of the citizens. This condition was imposed to supplement the IEPA regulations, not super-cede nor control them.

E. Condition 27

Condition 27 of the County’s siting approval states as follows:

27. Visual Barriers. The development of the landfill shall be built in such a manner that perimeter and operational berms shall be placed to minimize view of the landfill operations and to assist in minimizing possible offsite impact. Perimeter berms shall be vegetated immediately after they are constructed. The east perimeter berm shall be constructed prior to waste exhumation and other operations that expose waste within 500 feet of the east property boundary. The east perimeter berm shall be no less than 8 feet in height and shall extend, at a minimum, from point 5800 N to point 4800 N shown on Drawing A4, and shall be built wide enough to support vegetation as described on the application’s landscape plan. Operational berms shall be used such that waste is not seen on the west, north or east. In areas where there is insufficient room to construct a separate berm, the elevated roadway may be horizontally extended and the plantings may be installed adjacent to the roadway surface or upon the sideslopes of such roadway/berm. The elevation of such a combination roadway/berm shall be 8 feet above the adjacent grade except where existing localized conditions are prohibitive and such determination is approved by the Macon County Solid Waste Department.

Veolia has agreed to the installation of perimeter berms, subject to the deletion of that portion of the condition that states "Operational berms shall be used such that waste is not seen on the west, north or east." Mr. Bossert testified in response to a question that Veolia could build a screening berm to block the above ground operations from view off-site. (C2-56). Although Mr. Bossert testified that he was not aware of landfills that have screening berms to screen the view of garbage from off-site locations, doesn't mean that screening berms are inappropriate .

The purpose of perimeter berms is to screen part of the operations from adjacent roadways (Ill.Admin.Code 811.302c). The extension of the screening berms to areas above ground elevation is merely an extension of the same concept. It serves to limit views of the operations of the landfill from area roadways.

The Macon County Board has appropriately considered the application, the testimony and the oral and written Public Comment filed by the parties and the public. Only Macon County has the ability to weigh the evidence as they see fit. The Pollution Control Board must consider the whether the County Board's decision was against the manifest weight of the evidence, which includes the recommendations of the County's Review Team. Veolia had an opportunity to respond to the County's Review Team's recommended Conditions and in fact even convinced the EEHW Hearing Committee to change two conditions (C6-40 and C6-50) to the way that Veolia proposed, as opposed to the County Review Team's recommendation. Even if they hadn't, such evidence was appropriately entered and considered by the Macon County Board in reaching their decision and imposing certain conditions.

IV. CONCLUSION

Wherefore the County Board of Macon County, Illinois respectfully requests that the Pollution Control Board deny the requests of the Petitioner, Veolia ES Valley View Landfill, Inc. If the Pollution Control Board determines that one or more of the imposed conditions exceed the authority of the County's authority, then the County respectfully requests that the remainder of said conditions remain in full force and effect.

Respectfully Submitted,
COUNTY BOARD OF MACON COUNTY, IL

By: 
One of its Attorneys

Larry M. Clark
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CERTIFICATE OF SERVICE

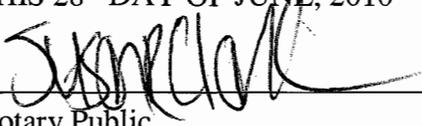
I, Larry M. Clark, an attorney for the Respondent, hereby certify that I have served the attached Notice of Filing and Appearance on the following person at the following address by U.S. Mail, postage prepaid.

Gerald P. Callaghan
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606



Larry M. Clark

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 28th DAY OF JUNE, 2010



Notary Public