

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

STOP THE MEGA-DUMP,)	
)	
Petitioner,)	
)	
v.)	PCB 10-103
)	(Third-Party Pollution Control Facility
COUNTY BOARD OF DEKALB COUNTY)	Siting Appeal)
ILLINOIS and WASTE MANAGEMENT OF)	
ILLINOIS, INC.,)	
)	
Respondents.)	

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STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS,)	
INC.)	
)	
Petitioner,)	
)	
v.)	PCB 10-104
)	(Pollution Control Facility Siting Appeal)
DEKALB COUNTY BOARD,)	(Consolidated)
)	
Respondent.)	

DEKALB COUNTY BOARD'S FIRST SET OF INTERROGATORIES

Respondent DeKalb County Board (County), by its attorneys, in accordance with 35 Ill. Adm. Code 101.620, Illinois Supreme Court Rule 213, and the parties' agreed discovery schedule, requests that Petitioner, Stop the Mega-Dump (SMD), answers under oath the following Interrogatories by August 9, 2010 (the first business day after the agreed-upon due date for written responses, August 7, 2010).

DEFINITIONS AND INSTRUCTIONS

1. The term "Application" means the application of Waste Management of Illinois, Inc. for site location approval of an expansion of the DeKalb County Landfill filed with the DeKalb County Board on November 30, 2009.

2. The terms “you” or “your” means SMD and its members.
3. If you encounter any ambiguity in either an interrogatory or an instruction, please so state and set forth the matter deemed ambiguous and the construction chosen in responding.
4. Unless otherwise indicated, the terms used in these interrogatories have the same meaning ascribed to them under the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*, and the regulations found at 35 Ill. Adm. Code Parts 810-815.
5. “Document” or “documents” shall be interpreted to the fullest extent permissible under Illinois Supreme Court Rule 214, and shall include, but not be limited to all drafts and non-identical copies or versions of all papers, photographs, films, recordings, memoranda, books, records, accounts, communications and all retrievable information in computer storage, and information recorded in any other form capable of being read, heard or otherwise understood.
6. The term “Petition” means the petition for review of the DeKalb County Board’s decision to grant site location approval to Waste Management of Illinois, Inc. based on its application to expand the DeKalb County Landfill, filed with the Illinois Pollution Control Board and docketed as PCB 10-103.
7. “Identify,” when used in reference to a document, means that document’s description (i.e., letter, memorandum, report, etc.), the document’s title, date and number of pages, the document’s subject matter, author, as well as the person or persons to whom the document was directed, person or persons who received the document, the document’s present location, the identity of the person presently having possession, custody, or control of the document.

8. "Identify," when used in reference to a person, means the person's full name, present (or last known) address and telephone number, including the person's employment address and phone number.
9. "Relate" and "relating" mean, without limitation, the consent of, refer to, reflect, or in any way logically or factually connecting directly or indirectly, with the matter discussed.
10. Where appropriate in the context of an interrogatory, the singular shall include the plural and vice versa. The word "or" and the word "and" shall be construed either disjunctively or conjunctively, and the word "between" shall be construed to mean, either between or among, as necessary to being within the scope of the request, any document that might otherwise be construed to be outside the scope.
11. "All" and "each" shall be construed as "all and each."
12. The masculine form of a noun or pronoun shall be considered to include within its meaning the feminine form of the pronoun, and vice versa.

INTERROGATORIES

Interrogatory No. 1: Provide a list of all members of SMD including names, addresses, initial date of affiliation, and position held within the organization.

ANSWER:

Interrogatory No. 2: Identify what requirements of Section 39.2 of the Illinois Environmental Protection Act with which the public hearing allegedly did not comply.

ANSWER:

Interrogatory No. 3: With regard to the statement in paragraph 5.A. of the Petition: “The DeKalb County Pollution Control Facility Siting Ordinance and the Articles of Rules and Procedures supplementary to the provisions of that Ordinance improperly limited, restricted and discouraged public participation and otherwise violated the requirements of fundamental fairness, including the requirement for at least minimal procedural due process.”

- a. List every provision of the DeKalb County Pollution Control Facility Siting Ordinance and Articles of Rules and Procedures to which you are referring in this statement.
- b. Identify every way in which you allege the provisions you provide as answers to (a) and (b) of this Interrogatory No. 3 limited, restricted or discouraged public participation.
- c. Identify how the provisions you provide as answers to (a) and (b) of this Interrogatory No. 3 violated the requirements of fundamental fairness. Please provide examples, including dates, times, places, and individuals.

ANSWER:

Interrogatory No. 4: Please describe in detail how the County Board or its agents and employees improperly limited and restricted public participation in the siting process, including identifying the date, time, place and individual that allegedly limited or restricted or discouraged public participation.

ANSWER:

Interrogatory No. 5: Identify all members of SMD that requested duplication of the Application or portions thereof, and identify the date, time and place of such request.

ANSWER:

Interrogatory No. 6: Identify the date, time, place and content of any and all activities of any of the County Board members, before, during, or after the siting proceeding, that support the allegation that the County Board prejudged the application and were biased in favor of Waste Management of Illinois, Inc.

ANSWER:

Interrogatory No. 7: Describe how the Application was made available to the public and when and how SMD or any of its members obtained a copy of said Application or access to review said Application.

ANSWER:

Interrogatory No. 8: Describe how the County Board, its agents, or employees allegedly made it difficult for the public or members of the SMD to access, view, study or duplicate the Application.

ANSWER:

Interrogatory No. 9: Describe in detail the factual basis for the allegation that the County Board had “prejudged” the Application, including without limitation, identifying those members of the County Board that had allegedly “prejudged” the Application.

ANSWER:

Interrogatory No. 10: Describe in detail the factual bases for the allegation that “multiple members of the DeKalb County Board . . . were biased in favor of Waste Management of Illinois, Inc.,” including without limitation, identifying those members of the County Board that were allegedly “biased” in favor of Waste Management of Illinois, Inc.

ANSWER:

Interrogatory No. 11: Describe the “tour,” the time and date the tour occurred, and identify the information provided to the County Board during the “tour” as alleged in paragraph 5.D. of the Petition.

ANSWER:

Interrogatory No. 12: Describe how the County Board was allegedly “tainted” by touring the Waste Management Prairie View landfill.

ANSWER:

Interrogatory No. 13: Identify all records that support the allegation that the County Board improperly committed and or earmarked expected “Host” fees from the landfill prior to making a decision on the Application.

ANSWER:

Interrogatory No. 14: Identify all procedural requirements or ordinances or County Board rules, regulations or guidance that preclude committing or earmarking expected “Host” fees prior to making a decision on a landfill siting application.

ANSWER:

Interrogatory No. 15: Identify all facts that support the allegation that the County Board failed to understand the burden of proof, its role in the siting process and the legal effect of siting approval.

ANSWER:

Interrogatory No. 16: Identify all alleged *ex parte* contacts between a County Board member and Waste Management of Illinois, Inc., including without limitation, the date, time, place and content of such communications and identify the individuals that participated in said communications.

ANSWER:

Interrogatory No. 17: State any and all factual support for the allegation that the County Board’s decision was not based upon the evidence.

ANSWER:

Interrogatory No. 18: Identify the date, time, place and content of any and all communications of any of the County Board members, on or off the record, that support allegations of fundamental unfairness and specifically name which member(s) participated in said communications.

ANSWER:

Interrogatory No. 19: Identify the date, time, place and content of any and all statements made, on or off the record, by any of the County Board members that support allegations of fundamental unfairness and specifically name which member(s) made said statements.

ANSWER:

Interrogatory No. 20: Identify the date, time and place during the siting process wherein Petitioners sought to cross-examine an adverse witness or to submit written comments, but were not allowed to do so.

ANSWER:

Interrogatory No. 21: Identify the date, time and place of any and all acts of fundamental unfairness on the part of any individual, group, entity or party during the siting process.

ANSWER:

Interrogatory No. 22: State any and all factual support for Petitioners' allegation that the County Board's decision to grant the Application was fundamentally unfair.

ANSWER:

Interrogatory No. 23: State any and all factual support for Petitioners' allegation that the County Board's finding that that criteria i, ii, iii, v, and vi had been met subject to certain conditions was unsupported by the record.

ANSWER:

Interrogatory No. 24: Identify any and all evidence presented during the siting process, including but not limited to, expert reports, exhibits, and testimony, that supports the allegation that the County Board's finding that criteria i, ii, iii, v, and vi had been met subject to certain conditions was unsupported by the record.

ANSWER:

Interrogatory No. 25: State any and all factual support for Petitioners' allegation that the County Board's decision was against the manifest weight of the evidence.

ANSWER:

Respectfully submitted,
DeKalb County Board


One of Its Attorneys

Dated: July 9, 2010

Amy Antonioli
SCHIFF HARDIN, LLP
233 South Wacker Drive, Suite 6600
Chicago, Illinois 60606
312-258-5500

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DEKALB COUNTY BOARD’S FIRST SET OF DOCUMENT REQUESTS

Respondent DeKalb County Board (County), by its attorneys, in accordance with Illinois Supreme Court Rule 214, and the parties’ agreed discovery schedule, requests that Petitioner, Stop the Mega-Dump (SMD), respond to this document request. Pursuant to the agreed discovery schedule, the date by which written responses are due is August 7, 2010. Documents responsive to this request should be produced or made available for inspection or reproduction by on or before August 9, 2010 (the first business day after August 7, 2010).

DEFINITIONS AND INSTRUCTIONS

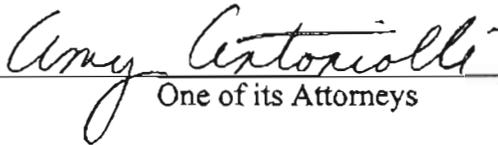
1. The terms “you” or “your” means SMD and its members.

2. If you encounter any ambiguity in either a request or an instruction, please so state and set forth the matter deemed ambiguous and the construction chosen in responding.
3. Unless otherwise indicated, the terms used in these requests have the same meaning ascribed to them under the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*, and the regulations found at 35 Ill. Adm. Code Parts 810-815.
4. “Document” or “documents” shall be interpreted to the fullest extent permissible under Illinois Supreme Court Rule 214, and shall include all drafts and non-identical copies of versions, and all tangible things.
5. “Relate” and “relating” mean, without limitation, the consent of, refer to, reflect, or in any way logically or factually connecting directly or indirectly, with the matter discussed.
6. Where appropriate in the context of a request, the singular shall include the plural and vice versa. The word “or” and the word “and” shall be construed either disjunctively or conjunctively, and the word “between” shall be construed to mean, either between or among, as necessary to being within the scope of the request, any document that might otherwise be construed to be outside the scope.
7. “All” and “each” shall be construed as “all and each.”
8. If any document or portion of a document is withheld or objected to on the ground of privilege, work product or any other privilege provide a privilege log that (1) states the nature of the privilege, doctrine or other protection claimed; (2) identifies the document, author, sender, date and all recipients of the document or person to whom the document has been disclosed; (3) describes in general the subject matter of the document and identifies the person having knowledge of the withheld document; and (4) identifies the present custodian of the document.

DOCUMENTS TO BE PRODUCED

1. Please provide any and all documents that SMD relied upon in answering the County's Interrogatories directed to SMD.
2. Please provide any and all documents that have been relied upon by SMD to participate in the siting process.
3. Please provide any and all documents SMD intends to present as evidence in this appeal.
4. Please provide any and all documents pertaining to the organizational structure of SMD.
5. Please provide copies of any and all information relating to SMD's Facebook profile including but not limited to discussions, wall postings, photographs, etc. from its creation through and including May 10, 2010.

Respectfully submitted,
DeKalb County Board



One of its Attorneys

Dated: July 9, 2010

Amy Antonioli
SCHIFF HARDIN, LLP
233 South Wacker Drive, Suite 6600
Chicago, Illinois 60606
312-258-5500

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 9th day of July, 2010, I have served by first class mail, postage affixed, copies of the attached **DEKALB COUNTY BOARD'S FIRST SET OF INTERROGATORIES** and **DEKALB COUNTY BOARD'S FIRST SET OF DOCUMENT REQUESTS**, upon the following persons:

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DEKALB COUNTY BOARD,


One of its Attorneys

Dated: July 9, 2010

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