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Date: 9/7/2010 5:23 PM
Subject: Case PCB 2010 104, Waste Management v DeKalb County Board

September 7, 2010
To: Illinois Pollution Control Board
Re: Case # ~~PCB 2010 104~~, Waste Management v DeKalb County Board

The hearing process regarding the expansion of the DeKalb County landfill violated fairness in several ways. The public was inadequately informed of the hearings. The information given at the hearings was inadequate and confusing. The information given out before, during, and after the hearings was uncoordinated, contradictory, and misleading.

I first learned of the public hearings on expanding DeKalb County landfill from the DeKalb Daily Chronicle the week before the hearings were scheduled. I attended the hearings four of the five scheduled days, But many people need to adjust work schedules, find child care, and possibly transportation to go to such hearings. The hearings were scheduled at Kishwaukee College, not a population center of DeKalb County and not served by public transportation. Information about the hearings should have been distributed earlier using various forms of media, including posters in public places such as grocery stores and libraries.

At the beginning of the hearings the hearing officer said the public could participate in the hearings, but when community members asked what participating entailed, he answered, "to participate" several times. Not having been involved in such a procedure, I had no idea what participating meant. Another community member said comments from the audience weren't considered, because they were not given under oath.

While the hearings were going on, the DeKalb County States attorney was quoted in the DeKalb Daily Chronicle, saying that DeKalb County Board members should not speak with constituents because it might jeopardize their effectiveness in the Waste Management matter. I called the DeKalb County States Attorney, who said board members could speak with their constituents, but they must not let these conversations to interfere with their judgments about the contract they had signed with Waste Management. The states attorney said the law governing the siting and hearing process was (415 ILCS 5/39). This law says absolutely nothing about elected representatives not speaking with their constituents.

Waste Management's legal counsel said the hearings were a quasi-legal process governed by a 1981 case law. As a judge or jury should not discuss cases outside the court or jury room, DeKalb County board members should not discuss the landfill expansion with constituents. During one afternoon, there were only two DeKalb County Board Pollution Control Committee members present at the hearing. As no court would continue if only two jury members were present, the hearings should have been stopped at that point.

The transcript of the hearings says that DeKalb County Board members should not speak with their constituents while considering the Waste Management contract because it might cause them undue mental stress. Speaking with constituents and conducting legal contracts are routine activities for elected officials, so this argument is utterly specious. If board members feel undue mental stress they should refrain from voting.

In summary, the hearing was unfair because community members could not participate effectively in the process. For them to do so, 1) announcements of the hearings needed to be made earlier and in various media and locations, 2) instructions for participation in the process needed to be distributed in writing and available at all times during the hearings, and 3) legal references, (415 ILCS 5/39) and 1981 case law, needed be available to the public prior to and at all times during the hearings. As none of these circumstances was met, it was not possible for the public to participate in the hearings in a meaningful manner, making the entire process grossly unfair to the people of DeKalb County.

Sincerely,
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PC# 10

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