

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|-------------------------|---|--|
| STOP THE MEGA-DUMP, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 10-103 |
| |) | (Pollution Control Facility Siting Appeal) |
| COUNTY BOARD OF |) | |
| DEKALB COUNTY, ILLINOIS |) | |
| AND WASTE MANAGEMENT |) | |
| OF ILLINOIS, INC., |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING AND PROOF OF SERVICE

PLEASE TAKE NOTICE that on the 3rd day of February, 2011, I filed with the Clerk of the Illinois Pollution Control Board, **Response of Stop the Mega-Dump in Opposition to DeKalb County's Motion for Waiver of Page Limit** true and correct copies of which are attached hereto and herewith served upon you.

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George Mueller, Attorney

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| Respondents. |) | |

**RESPONSE OF STOP THE MEGA-DUMP IN OPPOSITION TO DEKALB
COUNTY'S MOTION FOR WAIVER OF PAGE LIMIT**

NOW COMES Stop the Mega-Dump (STMD) by its attorney, George Mueller, and responds in opposition to the Motion for Waiver of Page Limit filed by the County Board of DeKalb County and in support thereof, states as follows:

1. The Board's fifty page limit on briefs is well established and corresponds to the Appellate Court's and Supreme Court's fifty page limit on briefs.
2. DeKalb County Board seeks a waiver of the fifty page limit on a Response Brief. DeKalb County Board's opening Brief was less than fifty pages, and STMD's Brief was less than fifty pages. DeKalb County Board now seeks to exceed the maximum page limit by over 40% in what is essentially a reply to the STMD Brief.
3. However, the DeKalb County Board's Brief is only partially a response to STMD's Brief. In addition, the DeKalb County Board's Brief rehashes arguments previously made, and makes new arguments which should have been made in its

initial Brief. For example, DeKalb County Board in its Response Brief raises for the first time the completely frivolous and unsupported argument that STMD waived its objection to prejudicial, pre-filing *ex parte* contacts and to the private guided tours sponsored by WMII for County Board members. This argument is made even though STMD filed a pre-hearing Motion seeking to disqualify all County Board members and this Motion specifically addressed pre-filing *ex parte* communications and the private guided tours. (C. 7550-7551).

4. There is no valid reason articulated for the County to be excused from the well-established page limit for briefs. Making the same point repetitively and longwindedly does not make it more legitimate or more persuasive. The County can argue for a hundred pages, if it likes, that pre-filing *ex parte* contacts are irrelevant to fundamental fairness, and that will still not be the law. Similarly, the County can argue for a hundred pages, if it likes, that pre-filing private guided tours of similar facilities have been expressly sanctioned by the Board, but that will still not be the law. The County Board can argue for a hundred pages, if it likes, that pre-hearing actions by the decision maker which chill discourage and limit public participation, are irrelevant if those who does bother to show up are ultimately allowed to participate, but that will still not be the law.

WHEREFORE, for the foregoing reasons, STMD respectfully prays that the Motion for Waiver of the Page Limit filed by the DeKalb County Board be denied.

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Respectfully Submitted,

By: _____
George Mueller, Attorney for Stop
the Mega-Dump

CERTIFICATE OF SERVICE

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT-DOCUMENT WAS SERVED UPON THE AFOREMENTIONED PARTIES, BY HAND DELIVERY, ELECTRONIC FILING, FACSIMILE OR DEPOSITING A TRUE AND CORRECT COPY OF SAME INTO THE U.S. MAIL LOCATED AT 750 E. ETNA ROAD, OTTAWA, ILLINOIS 61350, IN A PROPERLY ADDRESSED, FIRST CLASS POSTAGE PREPAID ENVELOPE, THIS 3rd DAY OF FEBRUARY, 2011, AT OR BEFORE THE HOUR OF 5:00 P.M.

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