

ILLINOIS POLLUTION CONTROL BOARD
October 29, 2015

WILL COUNTY,)	
)	
Petitioner,)	PCB 16-54
)	(Third-Party Pollution Control
v.)	Facility Siting Appeal)
)	
VILLAGE OF ROCKDALE, BOARD OF)	
TRUSTEES OF VILLAGE OF ROCKDALE)	
and ENVIRONMENTAL RECYCLING AND)	
DISPOSAL SERVICES, INC.,)	
)	
Respondents.)	

MOTION TO CONSOLIDATE

NOW COMES Environmental Recycling and Disposal and Services, Inc., by its attorney, George Mueller, and moves to consolidate this cause with PCB 16-56, entitled Waste Management of Illinois, Inc. v. Village of Rockdale, Board of Trustees of Village of Rockdale, and Environmental Recycling and Disposal Services, Inc. and in support thereof states as follows:

1. On September 3, 2015, the Village Board of Trustees of Rockdale, Illinois unanimously granted local siting approval, subject to conditions to Environmental Recycling and Disposal Services, Inc., for the Moen Transfer Station proposed to located in Rockdale, Illinois. The only participants in the siting hearing other than the Village and the Applicant, were Will County, Waste Management of Illinois, Inc., and the City of Joliet.
2. Will County and Waste Management of Illinois both filed timely Petitions for Review of local siting approval pursuant to 415 ILCS 5/40.1.
3. Attached hereto and made a part hereof is the Petition for Review filed in case PCB 16-56, by Waste Management of Illinois, Inc.

4. Petitions for Review in the two cases are substantially similar and raise essentially the same issues, mainly an alleged defect in the statutory pre-filing notice, improper amendment of the siting application and that the substantive decision on the statutory siting criteria was against the manifest weight of the evidence. Neither Petition for Review raises fundamental fairness issues.
5. Based upon the fact that both Petitions arise out of the same local siting hearing, with the same evidence, the similarity of the parties and the similarity of the issues raised by the respective Petitioners, the interests of judicial and administrative economy would support consolidation of these two cases.

WHEREFORE, Environmental Recycling and Disposal Services, Inc. prays that this cause be consolidated with PCB 16-56.

Respectfully submitted,

ENVIRONMENTAL RECYCLING AND
DISPOSAL SERVICES, LLC

By: _____


George Mueller, Attorney

George Mueller
ARDC No. 1980947
MUELLER ANDERSON & ASSOCIATES
609 Etna Road
Ottawa, Illinois 61350
Telephone (815) 431-1500
Facsimile (815) 431-1501
george@muelleranderson.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
OCT - 7 2015
STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	
)	PCB 16 - 56
VILLAGE OF ROCKDALE, ILLINOIS)	
BOARD OF TRUSTEES and)	(Pollution Control Facility Siting Appeal)
ENVIRONMENTAL RECYCLING AND)	
DISPOSAL SERVICES, INC.,)	
)	
Respondents.)	

**PETITION FOR HEARING
TO CONTEST SITE LOCATION APPROVAL**

Petitioner Waste Management of Illinois, Inc. ("WMII"), by its attorneys Pedersen & Houpt, respectfully requests a hearing to contest the decision of the Village of Rockdale Board of Trustees ("Village Board") granting site location approval for the proposed Moen Transfer Station ("Facility"). In support, WMII states as follows:

1. This Petition is filed pursuant to Section 40.1 of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/40.1), and in accordance with Sections 107.200 - 107.208 of the Illinois Pollution Control Board Procedural Rules (35 IAC 107.200-208).

2. On or about December 12, 2014, Environmental Recycling and Disposal Services, Inc. ("Applicant") filed an application with the Village of Rockdale requesting site location approval for a proposed municipal solid waste transfer station located on a 2.18-acre parcel at 2277 Moen Avenue in Rockdale, Illinois.

3. Public hearings on the site location application were held March 23, 2015, March 24, 2015, May 20, 2015 and May 21, 2015. On September 3, 2015, the Village Board conditionally approved the site location application. A true and correct copy of the Village

Board decision granting site location approval is attached hereto and made a part hereof as Exhibit A.

4. WMII appeared and participated in the public hearings. WMII operates two waste transfer stations that are located within one-and-one quarter (1¼) miles of the Facility.

5. WMII contests the Village Board's conditional siting approval because the Applicant's statutorily-required notice under Section 39.2(b) of the Act misstated and misrepresented the "nature and size" of the Facility, and therefore did not satisfy Section 39.2(b)'s jurisdictional requirements.

6. WMII further contests the Village Board's conditional siting approval because the information presented by the Applicant failed to establish that the Applicant met criteria (i), (ii), (v) and (viii) as required by Section 39.2(a) of the Act:

(a) critterion (i): that the Facility is necessary to accommodate the waste needs of the area it is intended to serve;

(b) critterion (ii): that the Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(c) critterion (v): the plan of operations for the Facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents; and

(d) critterion (viii): that as the Facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or Solid Waste Planning and Recycling Act, the Facility is consistent with that plan.

7. WMII requests that the Board find that Applicant's pre-filing notice failed to satisfy the requirements of Section 39.2(b) of the Act, and that the Village Board therefore lacked jurisdiction to consider the siting application.

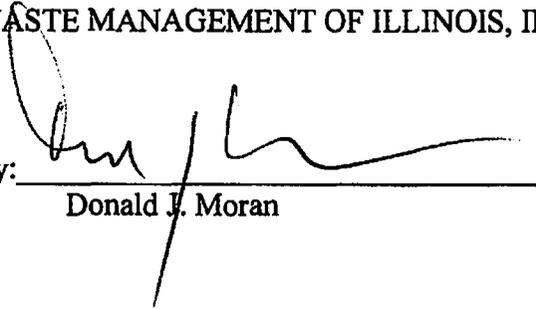
8. In addition, WMII requests that the Board reverse the conditional grant of siting approval because the Village Board's findings on criteria (i), (ii), (v) and (viii) are against the manifest weight of the evidence.

WHEREFORE, WMII respectfully request that the Board enter an order (a) setting for hearing this contest of the Village Board's conditional siting approval, (b) vacating or reversing the Village Board's conditional siting approval, and (c) providing such other and further relief as the Board deems appropriate.

Dated: October 7, 2015

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

Donald J. Moran

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
Telephone: (312) 641-6888

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

OCT - 7 2015

STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.,)

Petitioner,)

v.)

VILLAGE OF ROCKDALE, ILLINOIS)

BOARD OF TRUSTEES and)

ENVIRONMENTAL RECYCLING AND)

DISPOSAL SERVICES, INC.,)

Respondents.)

PCB 16 - 56

(Pollution Control Facility Siting Appeal)

**PETITION FOR HEARING
TO CONTEST SITE LOCATION APPROVAL**

Petitioner Waste Management of Illinois, Inc. ("WMII"), by its attorneys Pedersen & Houpt, respectfully requests a hearing to contest the decision of the Village of Rockdale Board of Trustees ("Village Board") granting site location approval for the proposed Moen Transfer Station ("Facility"). In support, WMII states as follows:

1. This Petition is filed pursuant to Section 40.1 of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/40.1), and in accordance with Sections 107.200 - 107.208 of the Illinois Pollution Control Board Procedural Rules (35 IAC 107.200-208).

2. On or about December 12, 2014, Environmental Recycling and Disposal Services, Inc. ("Applicant") filed an application with the Village of Rockdale requesting site location approval for a proposed municipal solid waste transfer station located on a 2.18-acre parcel at 2277 Moen Avenue in Rockdale, Illinois.

3. Public hearings on the site location application were held March 23, 2015, March 24, 2015, May 20, 2015 and May 21, 2015. On September 3, 2015, the Village Board conditionally approved the site location application. A true and correct copy of the Village

Board decision granting site location approval is attached hereto and made a part hereof as Exhibit A.

4. WMII appeared and participated in the public hearings. WMII operates two waste transfer stations that are located within one-and-one quarter (1¼) miles of the Facility.

5. WMII contests the Village Board's conditional siting approval because the Applicant's statutorily-required notice under Section 39.2(b) of the Act misstated and misrepresented the "nature and size" of the Facility, and therefore did not satisfy Section 39.2(b)'s jurisdictional requirements.

6. WMII further contests the Village Board's conditional siting approval because the information presented by the Applicant failed to establish that the Applicant met criteria (i), (ii), (v) and (viii) as required by Section 39.2(a) of the Act:

(a) critterion (i): that the Facility is necessary to accommodate the waste needs of the area it is intended to serve;

(b) critterion (ii): that the Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(c) critterion (v): the plan of operations for the Facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents; and

(d) critterion (viii): that as the Facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or Solid Waste Planning and Recycling Act, the Facility is consistent with that plan.

7. WMII requests that the Board find that Applicant's pre-filing notice failed to satisfy the requirements of Section 39.2(b) of the Act, and that the Village Board therefore lacked jurisdiction to consider the siting application.

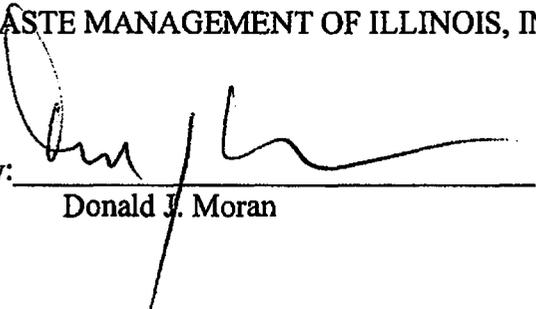
8. In addition, WMII requests that the Board reverse the conditional grant of siting approval because the Village Board's findings on criteria (i), (ii), (v) and (viii) are against the manifest weight of the evidence.

WHEREFORE, WMII respectfully request that the Board enter an order (a) setting for hearing this contest of the Village Board's conditional siting approval, (b) vacating or reversing the Village Board's conditional siting approval, and (c) providing such other and further relief as the Board deems appropriate.

Dated: October 7, 2015

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

Donald J. Moran

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
Telephone: (312) 641-6888