

IN RE THE MATTER OF: )  
 )  
PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Complainant )  
 )  
and ) PCB 20-32  
 )  
LANDFILL 33/WENDT FAMILY TRUST an )  
Illinois Trust, )  
 )  
Respondent. )

REPORT OF PROCEEDINGS at the hearing of the  
above-entitled cause before HEARING OFFICER CAROL WEBB,  
Hearing Officer of said hearing, on November 24th, 2020, at  
the hour of 10:00 o'clock a.m.

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A P P E A R A N C E S

STATE OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
BY: MARK GURNIK,

ATTORNEY GENERAL'S OFFICE  
BY: MR. DANIEL ROBERTSON

on behalf of the State of Illinois;

HINSHAW & CULBERTSON  
By: CHARLES HELSTEN

on Behalf of the Respondent 33;

ILLINOIS POLLUTION CONTROL BOARD  
BY: SHANNON BILBRUCK

ALSO PRESENT:

MR. DUSTIN BURGUR, Environmental Protection specialist

1 HEARING OFFICER WEBB: I'm Carol Webb, the  
2 Hearing Officer at the Pollution Control Board,  
3 C-a-r-o-l W-e-b-b. We' have Daniel Robertson from  
4 the Attorney General's Office, and Charles Helsten  
5 on behalf of Landfill 33.

6 The host of the meeting is Shannon  
7 Bilbruck. She's with the Pollution Control Board.  
8 Shannon Bilbruck, B-i-l-b-r-u-c-k.

9 We can go ahead and begin. Good morning.  
10 My name is Carol Webb, and this is the second  
11 hearing for PC B20-32, People of the State of  
12 Illinois versus Landfill 33, LTD, and Wendt Family  
13 Trust.

14 In October, it came to our attention that  
15 the Effingham Daily News did not publish notice of  
16 the August 19th hearing. So, we are doing a second  
17 hearing for anyone who may have been prejudiced by  
18 the lack of notice.

19 It is Tuesday, November 24th, 2020, and  
20 we're beginning at 10:00 a.m. This hearing was  
21 noticed and will be conducted pursuant to the  
22 Environmental Protection Act and the Board's  
23 Procedural Rules.

24 I would like to welcome members of the  
25 public to this hearing, as well as the parties,

1 Board Members and Board Staff.

2 In the interest of public safety, the  
3 Board will allow participation via Webex. This  
4 hearing is being recorded and transcribed by a court  
5 reporter. The transcript will be available on the  
6 Board's website by December 7th.

7 The subject of this hearing is the  
8 parties' proposed stipulation and settlement  
9 agreement. Upon consideration of the proposed  
10 agreement, the hearing record, and any written  
11 public comment, the Board may accept the settlement,  
12 it may suggest revisions, or it may reject the  
13 settlement.

14 At the hearing on August 19th, 2020, the  
15 parties described the proposed treatment and one  
16 person made a public comment.

17 The hearing transcript from the  
18 August 19th hearing is adopted in full at this  
19 hearing. Everything said at that first hearing is  
20 part of the Board record and does not need to be  
21 repeated today.

22 At this time, I will ask the parties to  
23 please make their appearances on the record,  
24 beginning with Mr. Robertson.

25 MR. ROBERTSON: Good morning, Madam Hearing

1 Officer. Yes, my name is Daniel Robertson. I am an  
2 Assistant Attorney General appearing on behalf of  
3 the of people. Sorry, I'm getting a lot of  
4 feedback.

5 HEARING OFFICER WEBB: I am, too. That's okay.  
6 Go ahead.

7 MR. ROBERTSON: We're also joined today by Mark  
8 Gurnik, G-u-r-n-i-k. Mark is an attorney with the  
9 Division of Legal Counsel at the State of Illinois  
10 Environmental Protection Agency, and also with us  
11 today is Dustin Burgur, D-u-s-t-i-n B-u-r-g-u-r.

12 He is an Environmental Protection  
13 Specialist appearing with the Illinois EPA.

14 HEARING OFFICER WEBB: Okay. Mr. Helsten?

15 MR. HELSTEN: Yes, good morning, Madam Hearing  
16 Officer, Charles Helsten, H-e-l-s-t-e-n, for the  
17 respondent.

18 HEARING OFFICER WEBB: Okay. Would either of  
19 the parties like to make any introductory remarks at  
20 all? You are not required to.

21 All right. Before we begin taking any  
22 public comment, please note that anyone may submit  
23 written public comment to the Board, regardless of  
24 whether they speak today.

25 Written public comment must be post marked

1 by December 8th, and must have filed with the Clerk  
2 of the Board in our Chicago office.

3 We will now take any public comment. Does  
4 anyone have any public comment they would like to  
5 make?

6 Okay, not hearing anyone, would the  
7 parties like to make any additional briefing  
8 schedule, in light of the fact that there's going to  
9 be another public comment period?

10 MR. ROBERTSON: Hearing Officer Webb, I really  
11 have just a brief comment to make.

12 HEARING OFFICER WEBB: Okay. I'm sorry.

13 MR. ROBERTSON: One of the comments that  
14 were -- sorry, I am getting my voice coming back a  
15 lot.

16 HEARING OFFICER WEBB: Shannon, is there any  
17 way that we can avoid that?

18 MS. BILBRUCK: The Hearing Officer needs to  
19 mute herself. For some reason, it will not allow me  
20 to mute her.

21 HEARING OFFICER WEBB: I can do that right now.

22 MR. ROBERTSON: Thank you. So, at the  
23 settlement that was filed on February 24th, 2020, a  
24 public comment was filed by Mr. Borese on  
25 September 1st, 2020.

1           In that public comment, the respondent,  
2 through our settlement consideration of --

3           HEARING OFFICER WEBB: Hold on.

4           MR. ROBERTSON: Thank you. So, the public  
5 comment and the response -- in our settlement -- let  
6 me start again.

7           In our settlement, we stated that there  
8 were no previously-adjudicated violations of the  
9 act. The public commenter, on September 1st, stated  
10 she appeased the reference via violations.

11           And in our post brief that was filed on  
12 September 21st, we stated -- sorry, let me get to  
13 the page. We stated that we -- the public commenter  
14 didn't mention what previous violations it was  
15 referring to; and without specific reference, we are  
16 unable to respond to the statement.

17           We did go back, and it has come to our  
18 attention that there were prior alleged violations  
19 at this facility. There was no enforcement action  
20 around 1995, and there were three administrative  
21 citations in the early to mid 2000s.

22           So, we intend to file, and I'm not sure we  
23 would call it an addendum to our post-hearing brief,  
24 just noting those prior violations.

25           Those violations should not change the

1 settlement in mind, but we will be filing something  
2 to clarify that portion of our final settlement.

3 HEARING OFFICER WEBB: Thank you. Mr. Helsten,  
4 would you like to make any comment?

5 MR. HELSTEN: No. Madam Hearing Officer,  
6 that's fine. The record is what the record is.

7 The only comment I would make, to put it  
8 into context for my personal knowledge, there is a  
9 portion I was not aware of, because I did not come  
10 on board until '96 -- 1996, '97.

11 In that timeframe, along with the current  
12 management of the landfill, which I think just  
13 points out since the new operating group has been in  
14 effect in slightly since the late 1990s, things have  
15 gone very well there. That's all.

16 HEARING OFFICER WEBB: Thank you. Do you want  
17 to set a hearing date to file an additional  
18 post-hearing brief? As I said, the public comment  
19 deadline will be December 8th.

20 Do you want to make it until the end of  
21 the month, or I think in consideration of the  
22 holidays, whatever you want is fine with me.

23 MR. ROBERTSON: If we can just have two extra  
24 weeks from the public comment date, just in case  
25 there is any public comment filed after or an



1 affidavit or anything on our part, it will give us  
2 time to put that together. So, December 22nd.

3 HEARING OFFICER WEBB: Okay. How is that for  
4 you, Mr. Helsten?

5 MR. HELSTEN: That's fine, Madam Hearing  
6 Officer.

7 HEARING OFFICER WEBB: Okay. Just to recap,  
8 the public comment period is extended to  
9 December 8th. The parties may file additional  
10 post-hearing briefs by December 22nd.

11 Is there anything else anyone would like  
12 to add before we adjourn?

13 Okay, hearing nothing, I thank everyone  
14 for coming today, and we are adjourned.

15 (WHICH WERE ALL THE PROCEEDINGS HAD.)  
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1 STATE OF ILLINOIS )  
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3 COUNTY OF COOK )

4 I, Pamela A. Marzullo, Court Reporter, certify that  
5 I was authorized to and did stenographically report the  
6 foregoing proceedings; and that the transcript is a true and  
7 complete record of my stenographic notes.

8 I further certify that I am not a relative,  
9 employee, attorney or counsel of any of the parties, nor am  
10 I relative or employee of any of the parties' attorney or  
11 counsel connected with the action, nor am I financially  
12 interested in the action.

13 Dated this 1st day of December, 2020.  
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<p><b>A</b></p> <p><b>a.m</b> 1:15 3:20 <b>above-entitled</b> 1:13 <b>accept</b> 4:11 <b>act</b> 3:22 7:9 <b>action</b> 7:19 10:10 10:11 <b>add</b> 9:12 <b>addendum</b> 7:23 <b>additional</b> 6:7 8:17 9:9 <b>adjourn</b> 9:12 <b>adjourned</b> 9:14 <b>administrative</b> 7:20 <b>adopted</b> 4:18 <b>affidavit</b> 9:1 <b>Agency</b> 2:2 5:10 <b>agreement</b> 4:9,10 <b>ahead</b> 3:9 5:6 <b>alleged</b> 7:18 <b>allow</b> 4:3 6:19 <b>appearances</b> 4:23 <b>appearing</b> 5:2,13 <b>appeased</b> 7:10 <b>Assistant</b> 5:2 <b>attention</b> 3:14 7:18 <b>attorney</b> 2:4 3:4 5:2,8 10:8,9 <b>August</b> 3:16 4:14 4:18 <b>authorized</b> 10:4 <b>available</b> 4:5 <b>avoid</b> 6:17 <b>aware</b> 8:9</p> <hr/> <p><b>B</b></p> <p><b>B-i-l-b-r-u-c-k</b> 3:8 <b>B-u-r-g-u-r</b> 5:11 <b>B20-32</b> 3:11 <b>back</b> 6:14 7:17 <b>beginning</b> 3:20 4:24</p>	<p><b>behalf</b> 2:5,8 3:5 5:2 <b>Bilbruck</b> 2:9 3:7,8 6:18 <b>board</b> 2:9 3:2,7 4:1,1,3,11,20 5:23 6:2 8:10 <b>Board's</b> 3:22 4:6 <b>Borese</b> 6:24 <b>brief</b> 6:11 7:11,23 8:18 <b>briefing</b> 6:7 <b>briefs</b> 9:10 <b>Burgur</b> 2:13 5:11</p> <hr/> <p><b>C</b></p> <p><b>C</b> 2:1 <b>C-a-r-o-l</b> 3:3 <b>call</b> 7:23 <b>Carol</b> 1:13 3:1,10 <b>case</b> 8:24 <b>cause</b> 1:13 <b>certify</b> 10:3,7 <b>change</b> 7:25 <b>Charles</b> 2:7 3:4 5:16 <b>Chicago</b> 6:2 <b>citations</b> 7:21 <b>clarify</b> 8:2 <b>Clerk</b> 6:1 <b>come</b> 7:17 8:9 <b>coming</b> 6:14 9:14 <b>comment</b> 4:11,16 5:22,23,25 6:3,4 6:9,11,24 7:1,5 8:4,7,18,24,25 9:8 <b>commenter</b> 7:9,13 <b>comments</b> 6:13 <b>Complainant</b> 1:3 <b>complete</b> 10:6 <b>conducted</b> 3:21 <b>connected</b> 10:10 <b>consideration</b> 4:9 7:2 8:21</p>	<p><b>context</b> 8:8 <b>Control</b> 2:9 3:2,7 <b>COOK</b> 10:2 <b>counsel</b> 5:9 10:8 10:10 <b>COUNTY</b> 10:2 <b>court</b> 4:4 10:3 <b>CULBERTSON</b> 2:6 <b>current</b> 8:11</p> <hr/> <p><b>D</b></p> <p><b>D-u-s-t-i-n</b> 5:11 <b>Daily</b> 3:15 <b>Daniel</b> 2:4 3:3 5:1 <b>date</b> 8:17,24 <b>Dated</b> 10:13 <b>day</b> 10:13 <b>deadline</b> 8:19 <b>December</b> 4:6 6:1 8:19 9:2,9,10 10:13 <b>described</b> 4:15 <b>Division</b> 5:9 <b>doing</b> 3:16 <b>Dustin</b> 2:13 5:11</p> <hr/> <p><b>E</b></p> <p><b>E</b> 2:1,1 <b>early</b> 7:21 <b>effect</b> 8:14 <b>Effingham</b> 3:15 <b>either</b> 5:18 <b>employee</b> 10:8,9 <b>enforcement</b> 7:19 <b>Environmental</b> 2:2,13 3:22 5:10 5:12 <b>EPA</b> 5:13 <b>extended</b> 9:8 <b>extra</b> 8:23</p> <hr/> <p><b>F</b></p> <p><b>facility</b> 7:19 <b>fact</b> 6:8 <b>Family</b> 1:5 3:12</p>	<p><b>February</b> 6:23 <b>feedback</b> 5:4 <b>file</b> 7:22 8:17 9:9 <b>filed</b> 6:1,23,24 7:11 8:25 <b>filing</b> 8:1 <b>final</b> 8:2 <b>financially</b> 10:10 <b>fine</b> 8:6,22 9:5 <b>first</b> 4:19 <b>foregoing</b> 10:5 <b>full</b> 4:18 <b>further</b> 10:7</p> <hr/> <p><b>G</b></p> <p><b>G-u-r-n-i-k</b> 5:8 <b>General</b> 5:2 <b>General's</b> 2:4 3:4 <b>getting</b> 5:3 6:14 <b>give</b> 9:1 <b>go</b> 3:9 5:6 7:17 <b>going</b> 6:8 <b>good</b> 3:9 4:25 5:15 <b>group</b> 8:13 <b>Gurnik</b> 2:2 5:8</p> <hr/> <p><b>H</b></p> <p><b>H-e-l-s-t-e-n</b> 5:16 <b>hearing</b> 1:12,13 1:14,14 3:1,2,11 3:16,17,20,25 4:4,7,10,14,17 4:18,19,19,25 5:5,14,15,18 6:6 6:10,12,16,18,21 7:3 8:3,5,16,17 9:3,5,7,13 <b>Helsten</b> 2:7 3:4 5:14,15,16 8:3,5 9:4,5 <b>HINSHAW</b> 2:6 <b>Hold</b> 7:3 <b>holidays</b> 8:22 <b>host</b> 3:6 <b>hour</b> 1:15</p>	<p><b>I</b></p> <p><b>Illinois</b> 1:2,5 2:2,5 2:9 3:12 5:9,13 10:1 <b>intend</b> 7:22 <b>interest</b> 4:2 <b>interested</b> 10:11 <b>introductory</b> 5:19</p> <hr/> <p><b>J</b></p> <p><b>joined</b> 5:7</p> <hr/> <p><b>K</b></p> <p><b>knowledge</b> 8:8</p> <hr/> <p><b>L</b></p> <p><b>lack</b> 3:18 <b>landfill</b> 1:5 3:5,12 8:12 <b>late</b> 8:14 <b>Legal</b> 5:9 <b>light</b> 6:8 <b>lot</b> 5:3 6:15</p> <hr/> <p><b>M</b></p> <p><b>Madam</b> 4:25 5:15 8:5 9:5 <b>management</b> 8:12 <b>Mark</b> 2:2 5:7,8 <b>marked</b> 5:25 <b>Marzullo</b> 10:3 <b>MATTER</b> 1:1 <b>meeting</b> 3:6 <b>members</b> 3:24 4:1 <b>mention</b> 7:14 <b>mid</b> 7:21 <b>mind</b> 8:1 <b>month</b> 8:21 <b>morning</b> 3:9 4:25 5:15 <b>mute</b> 6:19,20</p> <hr/> <p><b>N</b></p> <p><b>N</b> 2:1 <b>name</b> 3:10 5:1 <b>need</b> 4:20</p>
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