

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

REPUBLIC SERVICES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB No. 24-65
	)	(Third-Party Pollution Control
McLEAN COUNTY, ILLINOIS	)	Facility Siting Appeal)
McLEAN COUNTY BOARD, and	)	
LAKESHORE RECYCLING	)	
SYSTEMS, LLC,	)	
	)	
Respondents.	)	

**MOTION FOR SANCTIONS**

Respondents McLean County, Illinois, McLean County Board (the “County”) and Lakeshore Recycling Systems, Inc. (“LRS”), by and through counsel, pursuant to 35 Ill. Adm. Code Section 101.800, submit the following Motion for Sanctions (“Motion”).

1. On June 17, 2024, the Illinois Pollution Control Board (the “Board”) entered an Order incorporating the Parties’ agreed upon Discovery Schedule, which set forth the deadlines for written discovery, disclosures and prehearing motions. In accordance with the timelines set forth in the Order and Discovery Schedule, Respondents served on Petitioner Joint Interrogatories and Requests for Production (“RFP”) of Documents (the “Requests”) on June 24, 2024. Based on the agreed upon Discovery Schedule, Petitioner was obligated to respond to the Requests on July 15, 2024. Petitioner also served interrogatories and requests for production on Respondents. Respondents provided their responses to Petitioner on July 15.

2. Late on July 15, 2024, rather than submit its Responses, Petitioner filed a Motion for Extension of Time to Respond to Discovery seeking an additional week to respond, until July 22, 2024. Respondents filed a Response to Plaintiff’s Motion immediately (the “Response”)

requesting denial of the Motion due to the already compressed Discovery Schedule, unreasonable delay and unfair prejudice that would result should the extension be granted.

3. On July 16, 2024, the Board issued an Order denying Petitioner's Motion given the short timeframe before the July 29-30 hearing date, noting there is still "a lot of work to be done in that time[.]" As such, the Hearing Officer ordered that the Discovery Schedule originally agreed upon by the parties remain in effect.

4. As of July 18, 2024, Petitioner has failed to timely respond to Respondents' Requests, nor has Petitioner provided any reasons for this delay, or any estimate as to when or whether responses to the Requests are or will be forthcoming.

5. Notably, the Petition for Review filed by Petitioner provides little detail as to the actual substance or specific basis of Petitioner's allegations. The primary purpose of the Requests served by Respondents on Petitioner was to obtain additional detail and explanation as to the basis of and any claimed support for those claims to allow Respondents to understand and adequately respond to Petitioner's claims during the scheduled hearing. Yet, to date, Petitioner has failed to provide any further explanation, or support, or produce any documents to substantiate the claims made in the Petition for Review. Petitioner's unreasonable failure to provide any responses or requested documents significantly impairs Respondents' ability to prepare for the scheduled hearing, particularly in light of the upcoming deadlines for pre-hearing motions and disclosure of witnesses and exhibits which are July 19 and July 22, respectively. Even if Petitioner were to immediately provide responses that would still leave little time for Respondents to review, analyze and respond to any information contained therein or to locate and prepare witnesses that may be necessary for response. Pursuant to 35 IAC 101.800, the Board is empowered to order sanctions to enforce orders entered by the Hearing Officer or Board. Petitioner has unreasonably failed to comply with the established deadlines set forth in the Hearing Officer's Order (entered June 17,

2024) and subsequent Order denying Petitioner's Motion for Extension (entered July 16). As such, sanctions are appropriate.

6. Specifically, given Petitioner's continued refusal to comply and significant prejudice caused by Petitioner's failure to respond to discovery, the Board should dismiss this action or Petitioner's claims, either in whole or in part, or grant judgment by default against Petitioner as to those claims which are the subject of Respondents' discovery Requests and for which Petitioner has failed to provide further explanation or support, as allowed for in the rules. Alternately, Petitioner should be precluded from introducing or offering any evidence which is not part of the filed record in this action.

7. Little time remains for the hearing. Respondents are entitled to have the Petition for Review heard in an expeditious manner and without unreasonable delay. Petitioner's failure to comply with the Hearing Officer's Orders threatens the fundamental fairness of the hearing and the parties' ability to adequately prepare. As such, sanctions are both authorized and appropriate.

For these reasons, Respondents McLean County, Illinois, McLean County Board and Lakeshore Recycling Systems, Inc. request that the Board dismiss this action or Petitioner's claims, either in whole or in part, grant judgment by default against Petitioner as to those claims impacted by Petitioner's failure to comply. Alternately, Respondents request that the Board preclude or otherwise bar Petitioner from introducing or offering any evidence which is not part of the filed record in this action.

Dated: July 18, 2024

Respectfully submitted,

/s/ Stacy J. Stotts  
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Attorneys for McLean County Board

**CERTIFICATE OF SERVICE**

I, Stacy J. Stotts, of the law firm Polsinelli PC herein certify that on July 18, 2024, electronically submitted for filing the foregoing **RESPONSE FOR SANCTIONS** with the Pollution Control Board by using the Clerk's Office On-Line (COOL) eFile system. I further certify that I served the other parties in this case with a copy of the foregoing document by transmitting the document by e-mail to the parties' representatives, who are identified below, at their designated e-mail addresses of record.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

*/s/ Stacy J. Stotts*

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Attorney for Respondent  
Lakeshore Recycling Systems, LLC