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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 18 2003

STATE OF ILLINOIS
Pollution Control Board

THE CITY OF KANKAKEE, an Illinois
Municipal Corporation)

Petitioner)

v.)

No. PCB 03-125

COUNTY OF KANKAKEE, a body politic and
Corporate; KANKAKEE COUNTY BOARD;
And WASTE MANAGEMENT OF ILLINOIS,
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

MERLIN KARLOCK,)

Petitioner)

v.)

No. PCB 03-133

COUNTY OF KANKAKEE, a body politic and
Corporate; KANKAKEE COUNTY BOARD;
And WASTE MANAGEMENT OF ILLINOIS,
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

MICHAEL WATSON,)

Petitioner)

v.)

No. PCB 03-134

COUNTY OF KANKAKEE, a body politic and
Corporate; KANKAKEE COUNTY BOARD;
And WASTE MANAGEMENT OF ILLINOIS,
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

KEITH RUNYON,)

Petitioner)

v.)

No. PCB 03-135

COUNTY OF KANKAKEE, a body politic and
Corporate; KANKAKEE COUNTY BOARD;
And WASTE MANAGEMENT OF ILLINOIS,
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

RECEIVED
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APR 18 2003
STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS)
INC.,)
)
Petitioner)
)
v.)
)
COUNTY OF KANKAKEE,)
)
Respondent)

No. PCB 03-144
(Pollution Control Facility
Siting Appeal Consolidated)

NOTICE OF FILING

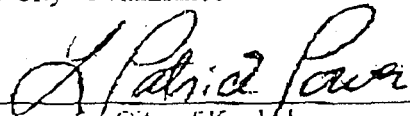
To: See Attached Service List

PLEASE TAKE NOTICE that on April 17, 2003 there caused to be filed via U.S. Mail with the Illinois Pollution Control Board an original and 9 copies of the following document, a copy of which is attached hereto:

City of Kankakee's Supplemental Response to Waste Management of Illinois, Inc.'s Motion to Sever its Appeal of Two Siting Conditions from the Four Appeals Challenging the Kankakee County Siting Approval

Respectfully submitted,

The City of Kankakee

By: 
Attorney for City of Kankakee

Prepared by:
L. Patrick Power #2244357
Corporate Counsel
956 North Fifth Ave.
Kankakee, IL 60901
(815) 937-6937

AFFIDAVIT OF SERVICE

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on April 17, 2003, a copy of the foregoing City of Kankakee's Supplemental Response to Waste Management of Illinois, Inc.'s Motion to Sever its Appeal of Two Siting Conditions from the Four Appeals Challenging the Kankakee County Siting Approval was served upon:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
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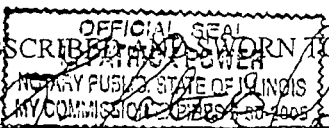
Keith Runyon
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Brad Halloran, Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601-3218
Fax: (312) 814-3669

By depositing a copy thereof, enclosed in an envelope in the United States Mail at Kankakee, Illinois, proper postage prepaid, before the hour of 6:00 p.m., on 17th day of April 2003, addressed as above.

Kristen A. Schmalz

SUBSCRIBED AND SWORN TO before me this 17th day of April 2003.



Notary Public
Prepared by: L. Patrick Power
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE CITY OF KANKAKEE, an Illinois
Municipal Corporation)

Petitioner)

v.)

No. PCB 03-125

COUNTY OF KANKAKEE, a body politic and)
Corporate; KANKAKEE COUNTY BOARD;)
And WASTE MANAGEMENT OF ILLINOIS,)
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

MERLIN KARLOCK,)

Petitioner)

v.)

No. PCB 03-133

COUNTY OF KANKAKEE, a body politic and)
Corporate; KANKAKEE COUNTY BOARD;)
And WASTE MANAGEMENT OF ILLINOIS,)
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

MICHAEL WATSON,)

Petitioner)

v.)

No. PCB 03-134

COUNTY OF KANKAKEE, a body politic and)
Corporate; KANKAKEE COUNTY BOARD;)
And WASTE MANAGEMENT OF ILLINOIS,)
INC.,)

Respondent)

(Third-Party Pollution Control Facility
Siting Appeal)

KEITH RUNYON,)

Petitioner)

v.)

No. PCB 03-135

COUNTY OF KANKAKEE, a body politic and)
Corporate; KANKAKEE COUNTY BOARD;)
And WASTE MANAGEMENT OF ILLINOIS,)
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(Third-Party Pollution Control Facility
Siting Appeal)

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WASTE MANAGEMENT OF ILLINOIS)	
INC.,)	
)	
Petitioner)	
)	
v.)	No. PCB 03-144
)	(Pollution Control Facility
COUNTY OF KANKAKEE,)	Siting Appeal Consolidated)
)	
Respondent)	

SUPPLEMENT TO CITY OF KANKAKEE'S RESPONSE TO WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION TO SEVER ITS APPEAL OF TWO SITING CONDITIONS FROM THE FOUR APPEALS CHALLENGING THE KANKAKEE COUNTY SITING APPROVAL

Now comes City of Kankakee, a Municipal Corporation, (hereinafter "City"), by and through its attorneys, L. Patrick Power and Kenneth A. Leshen, Assistant City Attorneys, and filing this supplement to its response to Waste Management of Illinois, Inc.'s (hereinafter "WMII") Motion to Sever, states as follows:

1. The Provisions of 735 ILCS 5/2-1006 read as follows:

"5/2-1006. Consolidation and Severance of Cases

An action may be severed, and actions pending in the same court may be consolidated, as an aid to convenience, whenever it can be done without prejudice to a substantial right."

2. There are a substantial number of cases construing the above referred to provision.

3. The Courts of Illinois clearly favor consolidation of case where the same can be done as a matter of judicial economy. *J.F. Incorporated v. Vicik*, 99 Ill. App. 3d 815.

4. The purposes of consolidation are to expedite resolution of lawsuits, conserve time of the court, and to avoid additional expenses caused by unnecessary duplication. *Wagner v. David*, Ill. App. 2d 284, reversed on other grounds 35 Ill. 2d 494.

5. Consolidation of cases in the same court is proper where they are of the same nature, arise from the same act or event, involve the same or like issues and depend largely upon the same evidence. *Robinson v. Robinson*, 100 Ill. App.3d 437.

6. A court does not abuse its discretion when consolidating causes of action where there are common questions of law and facts existing in both causes and it would be a convenience to all parties to have their rights determine in one hearing and no rights would be prejudiced by the consolidation. *Peck v. Peck*, 16 Ill. 2d 268; *Ad-Ex, Inc. v. City of Chicago*, 247 Ill. 3d 97; *Lowe v. Norfolk and Western Ry. Co.*, 124 Ill. App. 3d 80.

7. Consolidation of separate actions for trial is discretionary with the trial Court where separate causes are of the same nature, arise from the same act or event, involve the same like issues and depend largely upon the same evidence, consolidation is not an abuse of discretion. *Stone v. City of Belvidere*, 39 Ill. App. 3d 829.

8. A decision on a Motion for Consolidation would be overturned on review only if the decision amounted to an abuse of discretion. *Jappa High School District No. 21, Massac County v. Jones*, 35 Ill. App. 3d 323.

9. Factors to be considered are whether the claims of all the parties arise from the same project and involve common issues and evidence. Also important is the possibility of inconsistent results. *J.F. Incorporated v. Vicik*, 99 Ill. App. 3d 815, 818.

In the instant case, the Illinois Pollution Control Board already exercised its discretion and consolidated the causes. It had ample reason to do so. Both cases arise out of the

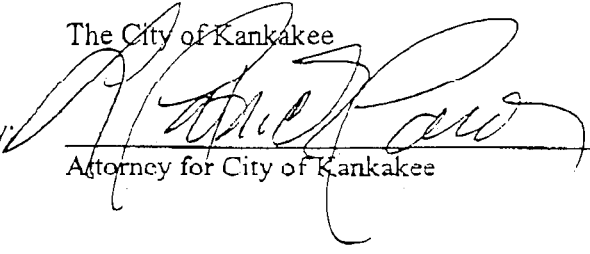
same factual basis and procedure. The parties are the same in both cases. The issues and law are also the same. In addition, the consolidation avoids the possibility of inconsistent results. The County cites no substantial prejudice to any rights as a result of the consolidation.

Based upon the foregoing authority, it is clear that the original order of Illinois Pollution Control Board consolidating their cases was not an abusive discretion and is based upon the principals propounded on the above cases and therefore the original consolidation should not be reversed as being an abusive discretion by the Illinois Pollution Control Board.

Respectfully submitted,

The City of Kankakee

By:



Attorney for City of Kankakee

Prepared by:
L. Patrick Power #2244357
Corporate Counsel
956 North Fifth Ave.
Kankakee, IL 60901
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STATE OF ILLINOIS
Pollution Control Board

Please deliver immediately to: Brad Halloran
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Fax number: 1-312-814-3669
Voice number:

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of:
Fax number: 815-937-0056
Voice number: 815-937-6937

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