

MAY 08 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

CITY OF KANKAKEE, )

Petitioner, )

v. )

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC., )

Respondents. )

PCB 03-03-125

(Third-Party Pollution Control  
Facility Siting Appeal)

MERLIN KARLOCK, )

Petitioner, )

v. )

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC., )

Respondents. )

PCB 03-133

(Third-Party Pollution Control  
Facility Siting Appeal)

MICHAEL WATSON, )

Petitioner, )

v. )

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC., )

Respondents. )

PCB 03-134

(Third-Party Pollution Control  
Facility Siting Appeal)

KEITH RUNYON, )

Petitioner, )

v. )

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC., )

Respondents. )

PCB 03-135

(Third-Party Pollution Control  
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**NOTICE OF FILING**

TO: See Attached Service List

PLEASE TAKE NOTICE that on May 2, 2003, we filed with the Illinois Pollution Control Board, the attached **WASTE MANAGEMENT OF ILLINOIS, INC.'S OBJECTION TO PETITIONER MICHAEL WATSON'S LIST OF WITNESSES TO TESTIFY AT THE PUBLIC HEARING, MOTION TO QUASH & FOR SANCTIONS** in the above entitled matter.

WASTE MANAGEMENT OF ILLINOIS, INC.

By 

Lauren Blair  
One of Its Attorneys

Donald J. Moran  
Lauren Blair  
PEDERSEN & HOUP  
Attorneys for Petitioner  
161 N. Clark Street  
Suite 3100  
Chicago, IL 60601  
Telephone: (312) 641-6888

**PROOF OF SERVICE**

Victoria L. Kennedy, a non-attorney, on oath states that she served the foregoing **WASTE MANAGEMENT OF ILLINOIS, INC.'S OBJECTION TO PETITIONER MICHAEL WATSON'S LIST OF WITNESSES TO TESTIFY AT THE PUBLIC HEARING, MOTION TO QUASH & FOR SANCTIONS** on the following parties by hand delivery to Hearing Officer Bradley Halloran at 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601 and by facsimile to all other parties at their facsimile number listed below on or before 5:00 p.m. on this 2nd day of May, 2003:

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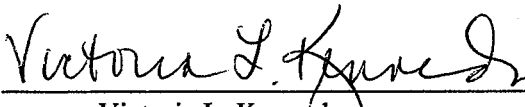
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\_\_\_\_\_  
Victoria L. Kennedy

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**WASTE MANAGEMENT OF ILLINOIS, INC.'S OBJECTION TO PETITIONER  
MICHAEL WATSON'S LIST OF WITNESSES TO TESTIFY AT THE PUBLIC  
HEARING, MOTION TO STRIKE & FOR SANCTIONS**

Respondent WASTE MANAGEMENT OF ILLINOIS, INC. ("WMII"), by its attorneys, Pedersen & Houpt, in support of its objection to Petitioner Michael Watson's witness list/motion to strike and for sanctions states as follows:

1. The parties were directed to file and serve by 1:00 p.m. on May 2, 2003, witness lists identifying who they intend to call to testify at the hearing.
2. At or around 1:00 p.m. on May 2nd, Petitioner faxed a document entitled "List of Witnesses to Testify at the Public Hearing". However, Petitioner's document was not simply a witness list, which was all that the parties were given leave to file, but also purports to be a Rule 237 Notice to Produce (in direct violation of the Hearing Officer's prior rulings) and a motion of sorts requesting various relief, including leave to take an evidence deposition or to submit written questions to be answered, certified and admitted into evidence.
3. Despite prior rulings by the Hearing Officer, paragraph 3 of Petitioner's witness list identified Donald J. Moran, WMII's attorney of record in this matter, and Lee Addleman, who is recuperating from liver transplant surgery, as witnesses to appear at the hearing.
4. On May 1, 2003, the Hearing Officer entered an Order that Mr. Moran will not be required to testify at the hearing. On April 30, 2003, the Hearing Officer entered an Order sustaining WMII's objections to the depositions of Mr. Moran and Mr. Addleman. The April 30th Order was entered after considering Petitioner City of Kankakee's Motion to Reconsider the Hearing Officer's rulings with respect to the depositions of Mr. Moran and Mr. Addleman.
5. Petitioner's Notice to Produce/attempt to compel Mr. Moran and Mr. Addleman to

testify at the hearing, in direct contravention to the Hearing Officer's May 1st and April 30th rulings, should be stricken/denied. Additionally, all other matter contained in Petitioner's document, other than the designation of appropriate witnesses, should be stricken.

6. Petitioner's last minute request that Mr. Addleman be made to submit to an evidence deposition or written questions also contravenes the Hearing Officer's prior rulings that WMII need not make Mr. Addleman available as a witness in these proceedings. As such, this request should also be denied.

7. Petitioner's exceptions to the Hearing Officer's prior rulings on this issue were clearly made and preserved for appeal. As such, Petitioner's latest attempt to compel Mr. Moran and Mr. Addleman's appearance at the hearing serves no other purpose than to harass WMII, delay these proceedings, increase the costs of litigation, as well as defy the Hearing Officer's Orders. Petitioner's willful and contumacious conduct warrants sanctions pursuant to Section 101.800 of the Illinois Pollution Control Board's Procedural Rules.

WHEREFORE, WMII requests that the Hearing Officer:

- A. Strike all matter contained in Petitioner's document, other than the designation of appropriate witnesses;
- B. Quash Petitioner Michael Watson's Notice to Produce Donald J. Moran and Lee Addleman as witnesses at the hearing;
- C. Bar Petitioner from filing any other pleading or making any further attempts to call Donald J. Moran and Lee Addleman as witnesses at the hearing;
- D. Deny Petitioner's request to take the evidence deposition of, or submit written questions to, Lee Addleman;
- E. Award WMII its attorney's fees and costs incurred in connection with the preparation and presentation of this pleading; and

F. Provide such further and other relief as he deems appropriate.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By  \_\_\_\_\_

One of Its Attorneys

Donald J. Moran  
Lauren Blair  
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