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JUL 24 2003
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

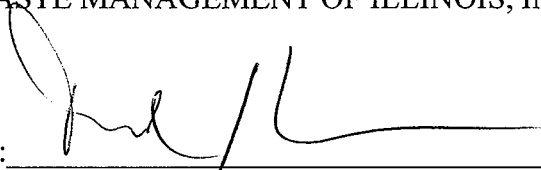
WASTE MANAGEMENT OF ILLINOIS, INC.,)	
)	
Petitioner,)	No. PCB 03-144
)	
vs.)	(Pollution Control Facility
)	Siting Application)
COUNTY BOARD OF KANE COUNTY,)	
ILLINOIS,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on July 24, 2003, we filed with the Illinois Pollution Control Board, the attached Waste Management of Illinois, Inc.'s **Motion to Dismiss Appeal of Siting Conditions** in the above entitled matter.

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

One of Its Attorneys

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 3100
Chicago, Illinois 60601
(312) 641-6888
Attorney Registration No. 1953923

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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WASTE MANAGEMENT OF ILLINOIS, INC.,)
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Petitioner,)
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COUNTY BOARD OF KANE COUNTY,)
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Respondent.)

STATE OF ILLINOIS
Pollution Control Board
No. PCB 03-144
(Pollution Control Facility
Siting Application)

MOTION TO DISMISS APPEAL OF SITING CONDITIONS

Petitioner, Waste Management of Illinois, Inc. ("WMII"), by its attorneys, Pedersen & Houpt, requests that its appeal of Special Conditions 2(h) and 2(x) of the Site Location Approval granted by Respondent Kankakee County Board ("County Board") be dismissed. In support of this motion, WMII states as follows:

1. On January 31, 2003, the County Board approved WMII's Request for Site Location Approval for the Expansion of the Kankakee Landfill. The Request sought siting approval for a 302-acre expansion of the existing solid waste landfill in unincorporated Kankakee County, Illinois.

2. The Site Location Approval was made subject to 41 special conditions. Two of those conditions provided as follows:

2(h) The active face must be kept at a minimum to reduce litter, vector, and odor impacts. The active face shall be a maximum of 180 feet by 120 feet, excepting the area allowed for random inspections, unless an alternative minimum size is specifically approved by the County Board.

2(x) The landfill operator shall install and maintain a double composite liner.

3. On March 7, 2003, WMII filed this appeal of Special Conditions 2(h) and 2(x), asserting that they were neither reasonable or necessary to accomplish the purposes of Section 39.2 of the Illinois Environmental Protection Act ("Act") and that they were not supported by the record nor shown to be technically appropriate or operationally reasonable.

4. Based upon the evidence of record, the interests of public health and safety, and the need to promptly and efficiently resolve issues affecting the public interest, WMII and the County Board have agreed to settle this appeal. The settlement leaves the conditions in place, and simply specifies the allocation of financial responsibility regarding the design component and clarifies the specific implementation of the operational provision. A true and correct photocopy of the Agreement Regarding Conditions is attached hereto as Exhibit A ("Agreement").

5. The Agreement confirms that the double composite liner submitted by WMII fully complies with Special Condition (x).

6. The clarification of Special Condition 2(h) to allow up to three active working faces and a variance in this requirement due to inclement weather or other reasons, will help facilitate safe and efficient waste disposal operation at the Expansion.

7. The Agreement resolves the issues raised in this appeal in a manner consistent with Section 39.2 of the Act, the evidence presented in the siting proceeding, and the protection of the public health, safety and welfare.

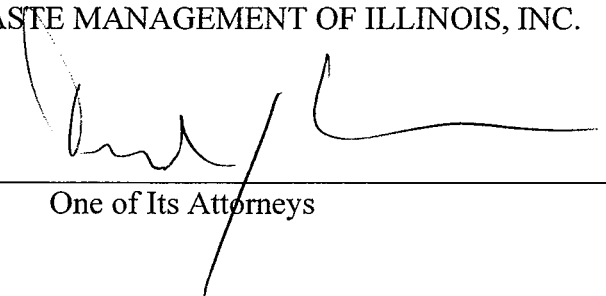
8. The County Board approved the Agreement by Resolution No. 2003-07-23-846 on July 23, 2003.

9. The County Board does not object to this motion.

WHEREFORE, WMII requests that this Board dismiss appeal No. PCB 03-144, and provide such other relief as may be appropriate.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By  _____
One of Its Attorneys

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street
Suite 3100
Chicago, Illinois 60601
(312) 641-6888

AGREEMENT REGARDING CONDITIONS

This Agreement Regarding Conditions is entered into this _____ day of July 2003, by and between Waste Management of Illinois, Inc., a Delaware corporation authorized to do business in Illinois and having an office at 720 East Butterfield Road, Lombard, Illinois 60148 ("Waste Management") and the County of Kankakee (the "County").

Recitals

A. Waste Management owns and operates the Kankakee Landfill ("Landfill") located on property commonly known as 180 E. 6000 South Road, Chebanse, Illinois 60922.

B. Waste Management and the County are parties to an Amended and Restated Host Community Agreement dated December 21, 2001 ("Host Agreement") pursuant to which certain benefits and protections are provided to the County if the Landfill is expanded.

C. Waste Management filed an application for local siting approval of an expansion of the Landfill on or about August 16, 2002.

D. The County granted local siting approval for the expansion of the Landfill on January 31, 2003, subject to certain conditions which it deemed necessary to include as part of such siting approval.

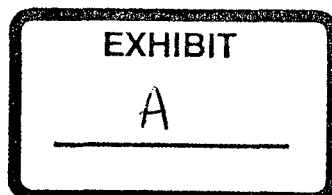
E. One of the conditions imposed by the County is that Waste Management "shall install and maintain a double composite liner."

F. Waste Management has filed an appeal of the double composite liner condition with the Pollution Control Board (PCB 03-144).

G. Waste Management contends that the regulations promulgated by the Pollution Control Board which pertain to landfill units such as that proposed by Waste Management in its application and pertinent provisions of the Illinois Environmental Protection Act do not specifically require that the expansion of the Kankakee Landfill be designed or constructed with a double composite liner. The County asserts that the imposition of the condition relating to installation and maintaining of a double composite liner is allowed by the provisions of Section 39.2(e) of the Act.

H. Patrick Engineering, the environmental engineering firm retained by the County in connection with the Landfill expansion, has confirmed that the additional design and construction costs associated with a double composite liner will be approximately \$11,286,018 (see Attachment A) and that this will add approximately 38 cents in costs for each ton of waste expected to be disposed of in the expansion of the Landfill.

I. Another condition imposed by the County is that the "active face shall be a maximum of 180 feet by 120 feet, excepting the area allowed for random inspections, unless an alternative minimum size is specifically approved by the County Board."



J. Waste Management asserts that this condition could hamper the safe and efficient operation of the Landfill, and has filed an appeal of the active face condition with the Pollution Control Board (PCB 03-144).

K. Both parties desire to amicably resolve these matters in a manner consistent with Section 39.2 of the Illinois Environmental Protection Act.

NOW, THEREFORE, in consideration of the covenants set forth in this Agreement, the County and Waste Management agree as follows:

1. The County agrees to pay forty percent (40%) of the costs of installation of the double composite liner required by Criterion 2 Special Condition X through a reduction in the per ton host fees to be paid pursuant to Paragraph 4 of the Host Agreement of 15¢ per ton.

2. The County confirms that Condition 2.p. does not preclude Waste Management from adjusting the final contours for the expansion, provided that (1) the maximum height of the landfill and the lateral extent of the landfill do not exceed the maximum height and lateral extent shown on the plans provided in the siting application and (2) the waste airspace volume does not exceed the design volume of 50,692,594 cubic yards contained in the application.

3. The County also confirms that the double composite liner design submitted by Waste Management to the Kankakee Planning Department on or about February 20, 2003 fully complies with Criterion 2, Special Condition X of the siting approval.

4. Waste Management agrees to withdraw its appeal of the double composite liner condition, and to waive any rights it may have to claim that the double composite liner condition is a "Change of Law" which could modify the price protection afforded Kankakee municipalities pursuant to Paragraph 18 of the Host Agreement. Waste Management also agrees to waive any rights it may have to claim that the double composite liner condition is a "Force Majeure" as defined in Paragraph 28 of the Host Agreement.

5. Without further approval from the County, Waste Management may operate up to three active working faces, which when combined may not exceed a width of 750 feet, except during the placement of the first lift or last lift in any area. In the event Waste Management requests a variance from the above due to inclement weather or for any other reason, the County Health Department is authorized to consider Waste Management's request and to grant a variance in the event the request does not adversely impact the safety, health and welfare of the County. In the event the County Health Department denies Waste Management's request, Waste Management may petition the County Board to consider its request.

6. Waste Management agrees to withdraw its appeal of the active face condition.

IN WITNESS WHEREOF, the County and Waste Management have executed this Agreement as of the _____ day of July 2003.

KANKAKEE COUNTY

WASTE MANAGEMENT
OF ILLINOIS, INC.

By: _____
Its County Board Chairperson

By: _____
Its Vice President

ATTEST:

ATTEST:

Clerk of Kankakee County

Assistant Secretary

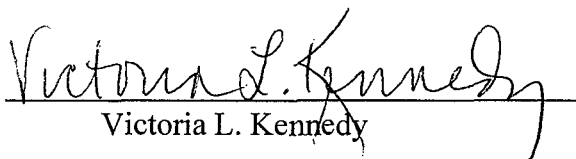
PROOF OF SERVICE

Victoria L. Kennedy, a non-attorney, on oath states that she served the foregoing Waste Management's **Motion to Dismiss Appeal of Siting Conditions** on the following parties by hand delivery to Bradley Halloran and by depositing same to Elizabeth Harvey and Charles F. Helsten in the U.S. mail at 161 N. Clark St., Chicago, Illinois 60601, at 5:00 p.m. on this 24th day of July, 2003:

Elizabeth S. Harvey
Swanson, Martin & Bell
One IBM Plaza
Suite 2900
Chicago, Illinois 60611

Charles F. Helsten
Richard S. Porter
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105-1389

Mr. Brad Halloran
Assistant Attorney General
Environmental Division
100 West Randolph, 11th Floor
Chicago, Illinois 60601


Victoria L. Kennedy