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JAN - 2 2004

ILLINOIS POLLUTION CONTROL BOARD

BYRON SANDBERG,  
Petitioner,  
vs.  
THE CITY OF KANKAKEE, ILLINOIS  
CITY COUNCIL, TOWN & COUNTRY  
UTILITIES, INC., and KANKAKEE  
REGIONAL LANDFILL, L.L.C.  
Respondents.

PCB 04-33  
(Third Party Pollution Control Facility  
Siting Appeal)

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS)  
INC.,  
Petitioner,  
vs.  
THE CITY OF KANKAKEE, ILLINOIS  
CITY COUNCIL, TOWN & COUNTRY  
UTILITIES, INC., and KANKAKEE  
REGIONAL LANDFILL, L.L.C.,  
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PCB 04-34  
(Third Party Pollution Control Facility  
Siting Appeal)

COUNTY OF KANKAKEE, ILLINOIS,  
and EDWARD D. SMITH, KANKAKEE  
COUNTY STATE'S ATTORNEY,  
Petitioners,  
vs.  
THE CITY OF KANKAKEE, ILLINOIS  
CITY COUNCIL, TOWN & COUNTRY  
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REGIONAL LANDFILL, L.L.C.,  
Respondents.

PCB 04-35  
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(Consolidated)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on December 31, 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:

**TOWN & COUNTRY UTILITIES, INC.'S MOTION TO STRIKE  
PETITIONER COUNTY OF KANKAKEE'S POST-HEARING BRIEF**

BY: George Mueller  
Attorney at Law

\*\*\*\*\*

PROOF OF SERVICE

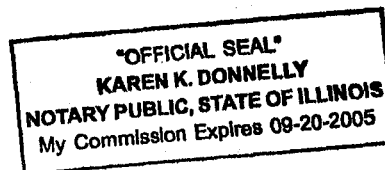
STATE OF ILLINOIS )  
 )SS.  
COUNTY OF LASALLE )

The undersigned, being first duly sworn, state that I served a true and correct copy of the foregoing Notice, together with a copy of each document referred to therein, upon the person(s) indicated via their facsimile numbers as indicated in the Service List on the 31st Day of November, 2003.

Pet Wheeler

SUBSCRIBED and SWORN TO Before Me This 31st Day of December, 2003.

Karen K. Donnelly  
Notary Public



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**TOWN & COUNTRY UTILITIES, INC.'S MOTION TO STRIKE**  
**PETITIONER COUNTY OF KANKAKEE'S POST-HEARING BRIEF**

Now come Town & Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C. by their attorney, George Mueller, (hereinafter "Town & Country") and moves that the Illinois Pollution Control Board strike the post-hearing brief filed by Petitioner County of Kankakee. In support of this motion, Town & Country states the following:

(1) Board Procedural Rule 101.302 (k) states:

No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material. 35 Ill. Adm. Code 101.302(k).

(2) The post-hearing brief filed by the County of Kankakee on December 24, 2003 in this matter is 109 pages long, without appendices.

(3) Respondent, Town & Country, Inc., is not aware of any action taken by the Board or Hearing Officer to approve this excessive filing in accordance with 35 Ill. Adm. Code 101.302(k).

(4) On December 22, 2003, the Petitioner County of Kankakee filed a Motion with the Board seeking leave to exceed the page limitation.

(5) That Motion was not filed in good faith in that it did not allow the Board sufficient time to consider the requested leave to file, prior to the filing deadline, nor did it allow Respondent Town & Country, Inc. sufficient time to respond to the request.

(6) Counsel for County of Kankakee is well aware of Board proceedings and procedures, including the Board's meeting schedule.

(7) Counsel for County of Kankakee participated in numerous conferences with the parties and Hearing Officer.

(8) While the briefing schedule was the subject of the parties' discussions with the Hearing Officer, Counsel for Town & Country did not seek leave from the Hearing Officer to file a brief in excess of the page limitation contained in Rule 101.302(k).

(9) The final Hearing Officer order submitted in this matter does not grant County of Kankakee leave to file a brief in excessive of the Board's page limitation.

(10) Counsel for County of Kankakee had ample opportunity to request the Board's prior approval, as required, for the filing of this brief in significant excess of the Board's requirements. As an example of the County's incredulous disregard for the Board's rules, processes and rulings, the County spends approximately fifteen pages (p. 9-23) presenting the very same arguments it presented, and lost, before the Board in PCB 03-03-31, 33, 35 (January 9, 2003) concerning notice. The Brief as much as admits so and is nothing other than a blatant attempt to get the Board to reverse its original (and correct) ruling on notice, upon which Town & Country relief in this matter.

(11) The excessive length of the brief unduly prejudices Town & Country, Inc. who must, by Hearing Officer Order, submit its Response Brief by January 9, 2003.

(12) The excessive brief filed by the County, with its numerous parts and subparts and summations, is unnecessary to the Board's determination in this matter. It is redundant and arduous. Instead of illuminating the issues for the Board, the excessive brief dilutes the clarity of those issues and is unduly burdensome to the Board and to the Respondents.

(13) The Board should not condone the County's callous treatment of its rules.

For the foregoing reasons, Town & Country, Inc. prays that the Board strike the County of Kankakee's Post-Hearing Brief because of its failure to adhere to Board Rule 101.302(k).

Respectfully Submitted,  
Town & Country Utilities, Inc. and  
Kankakee Regional Landfill, LLC

BY: George Mueller  
George Mueller

**GEORGE MUELLER, P.C.**  
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