

NOV 06 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEORIA DISPOSAL COMPANY,

Petitioner,

v.

PEORIA COUNTY BOARD,

Respondent.

)
ORIGINAL

) PCB 06-184

) (Pollution Control Facility Siting

) Appeal)

MOTION FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL
AND FILE SECOND AMENDED INDEX

NOW COMES, Respondent, the Peoria County Board, by and through its attorneys, and for this Motion for Leave to Supplement Record on Appeal and File Second Amended Index, states as follows:

1. On or about July 27, 2006, Peoria County Clerk filed and then certified the Record on Appeal in the above captioned matter.
2. On or about August 17, 2006, the Peoria County Clerk filed a Supplement to the Record on Appeal, pursuant to the Hearing Officer's Order dated August 3, 2006, containing the agency record on paper, which was filed out of chronological sequence.
3. During the course of discovery in this matter, Respondent has learned that certain documents that should have been included in the Record on Appeal were not contained in either the first or supplemental filings.
4. The Board's rules require the record to include all information or evidence presented to the local siting authority or relied upon by the local siting authority during its hearing process.

5. While the Board's rules regarding the filing of the record on appeal do not specifically authorize supplementing the record on appeal after the initial certification, other Board rules would appear to impose on parties a duty to supplement when appropriate.

6. Based upon the information obtained during the course of discovery and a review of the existing Record on Appeal, Respondent believes the following items should have been included in the Record on Appeal, but were not due to inadvertence:

a. The Supplemental Staff Report for Peoria Disposal Company Application for Local Siting Approval which was presented by County Staff at the April 3, 2006, subcommittee meeting;

b. The Proposed Findings of Fact prepared by County Staff for consideration by and distributed to the County Board prior to the April 6, 2006, committee meeting at which the Proposed Findings of Fact were reviewed and discussed; and

c. The one (1) page sheet of findings of fact generated by County Staff at the May 3, 2006, County Board meeting incorporating the one change decided and made by the County Board at that meeting.

7. The Supplement Staff Report identified in paragraph 6(a) above was reviewed and considered by the local siting authority during the proceedings, and should properly be made a part of the Record.

8. The Proposed Findings of Fact identified in paragraph 6(b) above were reviewed and considered by the local siting authority during the proceedings, and should properly be made a part of the Record.

9. The one page sheet of findings identified in paragraph 6(c) above documents the one change made to the Proposed Findings of Fact at the May 3, 2006, County Board meeting, and should therefore properly be made a part of the Record.

10. Respondent believes it is fair, appropriate and necessary to a complete and thorough review of the issues on appeal to include the above referenced items into the Record on Appeal.

11. The failure to include said documents in the initial filings was due to inadvertence, and was not intended to cause delay or prejudice to any party.

12. Enclosed with this motion are copies of the documents referenced above which have been bates stamped out of chronological sequence, but numbered sequentially following the present end of the numbering of the Record on Appeal, as well as a proposed Second Amended Index should the Board grant this motion.

13. There will be no prejudice to either party or the public caused by allowing the County to supplement the Record on Appeal in this matter.

14. If this motion is granted, the County Clerk will file the appropriate number of copies and a new certification of the Record.

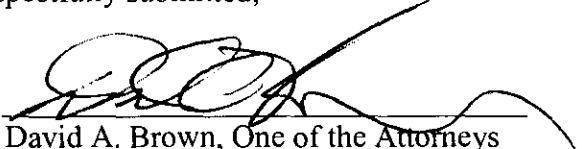
WHEREFORE, the County respectfully requests the Board grant the County leave to supplement the Record on Appeal, and file the additional documents and Second

Amended Index as part of the Record.

DATED: October 31, 2006.

Respectfully submitted,

By



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for Peoria County

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