

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROCHELLE WASTE DISPOSAL, L.L.C.,)
)
Petitioner,)
)
v.)
) PCB 07-113
THE CITY OF ROCHELLE, an Illinois) (Third-Party Pollution Control Facility
municipal corporation, and THE) Siting Appeal
ROCHELLE CITY COUNCIL,)
)
Respondents.)

CONCERNED CITIZENS OF OGLE)
COUNTY,)
)
Petitioner,)
) PCB 07-116
v.)
) (Third-Party Pollution Control Facility
THE CITY OF ROCHELLE, THE CITY) Siting Appeal
COUNCIL OF THE CITY OF ROCHELLE,)
and ROCHELLE WASTE DISPOSAL,)
L.L.C.,)
)
Respondents.)

**INTERROGATORIES OF CONCERNED CITIZENS OF OGLE COUNTY, PETITIONER,
DIRECTED TO RESPONDENT, THE CITY COUNCIL OF THE CITY OF ROCHELLE**

NOW COMES Petitioner, Concerned Citizens of Ogle County (“CCOC” or “Petitioner”), by and through its attorneys, David L. Wentworth II and Emily R. Vivian of Hasselberg, Williams, Grebe, Snodgrass & Birdsall, and hereby requests that Respondent, the City Council of the City of Rochelle (the “City Council”), answer under oath, in accordance with 35 Ill. Adm. Code 101.620, the following Interrogatories, within ten (10) days from the date upon which these Interrogatories were served (based on the Hearing Officer’s Order entered June 15, 2007):

DEFINITIONS

1. Identify.

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a. When used with reference to an individual (or multiple individuals), "identify" shall require a statement of the individual's full name; present and/or last known position, employment, job title and/or business affiliation; business address and telephone number; present or last known residential address and telephone number; and the individual's relationship, if any, to or with the parties hereto.

b. When used with reference to a business or corporation (or multiple businesses or corporations), "identify" shall mean to state the business's or corporation's legal name, the names under which it does business, its form (proprietorship, corporation, partnership, association or business trust, etc.), the date and place of its inception and/or incorporation, identification of its principal proprietors, partners or officers, its present address, its principal place of business and relationship, if any, to or with the parties hereto.

c. When used with reference to documents, "identify" shall require a statement of the date thereof, the type of document, the author or speaker, and if different, the signer or signers, the addressee, the substance thereof, their present or last known location or custodian, and all other means of identifying them with sufficient particularity to satisfy the requirements for their identification in a request for their production pursuant to the possession or subject to control of the City Council, state the disposition that was made of it, the reason for such disposition, and the date thereof.

d. When used in reference to any communication, meeting, act, occurrence, statement or conduct (hereinafter collectively "act"), "identify" requires you to:

- i. describe the substance of the event or events constituting such act, and state the date when such act occurred;
- ii. identify each and every person participating in such act;
- iii. identify all other persons present when such act occurred;

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- iv. state whether any minutes, notes, memoranda, accounts, statements, agreements, or documents relating to the act was made;
- v. state whether such record now exists; and
- vi. identify the person presently having possession, custody or control of such record.

2. Relating To. "Relating to" as used herein with reference to a subject shall mean both of the following:

a. Containing, comprising, consisting of, constituting, composed of, stating, setting forth or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject; and

b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

3. Document. "Document" shall mean all documents, objects and tangible things contemplated by the Illinois Code or the Illinois Administrative Code, including every original (and any copy of any original and any copy which differs in any way from any original) of every writing of every kind or description, whether handwritten, typed, drawn, sketched, or printed, including, without limitation, computer-generated or maintained data or reports, books, records, papers, pamphlets, brochures, circulars, plans, correspondence, emails, communications, telegrams, memoranda, notes, logs, notebooks, worksheets, reports, lists, analysis, appointment books, diaries, telephone bills and toll call records, expense reports, commission statements, confirmation statements, checkbooks, cancelled checks, receipts, contracts, agreements, instruments, assignments, applications, offers, acceptances, written memorials of oral communications, photographs, photographic slides or negative films, digital images, digital moving images, and film strips to which the City Council now has or has had access to in the past.

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4. Communication. "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identify of person(s) to whom and by whom it was made (see "1" above), the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

5. Any and All. As used herein "any" refers to any and all, and the term "all" likewise refers to any and all.

6. And/Or. "And" as well as "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Interrogatory any documents, acts or communications which might otherwise be construed to be outside its scope.

7. Application. "Application" shall mean the Application of Respondent, the City of Rochelle, to the City Council of the City of Rochelle for site location approval for a vertical and horizontal expansion of its existing municipal landfill located in Ogle County, Illinois.

8. City Council. "City Council" shall include, but not be limited to, all members of the City Council of the City of Rochelle, more specifically known as Mayor Chet Olson, Spencer Hayden, Bil Hayes, Dennis Berg, Dave Eckhardt, Wendell Colwill, and Kathy Hollonbeck; Donald J. Moran, attorney for the City Council of the City of Rochelle; Bruce McKinney, the City Clerk of the City of Rochelle; and John J. McCarthy, Hearing Officer, as agent for the City Council; and all other agents and representatives of the City Council of the City of Rochelle.

9. Any and all capitalized terms not defined herein should be ascribed the meanings given them in the Petition for Review.

INSTRUCTIONS

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1. Any word written in the singular shall be construed as plural and any word written in the plural shall be construed as singular when necessary to facilitate complete answers.

2. All information requested is from October 16, 2006, to the date of compliance with this request, unless otherwise specifically indicated. If the answer is not uniformly applied to that entire period, each change within the period is to be indicated with the date of such change.

3. Your answer to each interrogatory should include all knowledge within your custody, possession, or control. Where facts are set forth in your answers or portions thereof are supplied upon information and belief rather than actual knowledge, so state and specifically describe or identify the source or sources of such information and belief. If any estimate can reasonably be made in place of the unknown information, set forth your best estimate, clearly designated as such, in place of unknown information, and describe the basis upon which the estimate is made. If you cannot answer the interrogatory in full after exercising due diligence to secure the information requested, so state and answer to the fullest extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portion.

4. To the extent any interrogatory is objected to, set forth all reasons thereof. If you claim privilege as a ground for not answering any interrogatory in whole or in part, describe the factual basis for your claim of privilege, including all relevant dates and persons involved, in sufficient detail so as to permit the Court to adjudicate the validity of the claim. If you object in part to any interrogatory, answer the remainder completely.

5. Concerning any and all documents which you are asked to identify in these Interrogatories that you do not identify on the grounds of any type of privilege, or for any other reason, indicate and describe each document withheld by date, author(s), addressee(s), recipient(s), or distribute(s), title, type of document (e.g., memorandum, letter, report), location of its creation, present location of the document, identity of any person to whom it has already been revealed, identity of any person or entity who possesses or has custody of it, identity of any person or entity

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who possesses or has previously has custody of it, total number of copies created, the basis upon which it is being withheld, and general subject matter.

6. Where an interrogatory calls for the identification of a document, a true and correct copy of such document may be attached to the response in lieu of describing such documents, provided, however, where an interrogatory answer requires specification of particular words, paragraphs, pages, etc., the same be clearly identified. If in response to any interrogatory you exercise your option under the Illinois Supreme Court Rules to produce business records in lieu of a written response, identify and segregate the specific documents from which the answers to the interrogatory may be derived or ascertained with sufficient specificity to permit the answers to be identified in a document request.

7. To the extent required by the Illinois Supreme Court Rules and/or the Illinois Administrative Code or regulations, you are hereby requested and required to supplement your answers if you obtain or become aware of further responsible information after you serve your answers.

INTERROGATORIES

1. For the period between October 16, 2006 and June 18, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member or made to any City Council Member relating to the Application, excepting therefrom, communications in the form of official filings by Rochelle Waste Disposal, L.L.C., Concerned Citizens of Ogle County, and the City of Rochelle City Staff, and with respect to each such communication, please identify:

- a. The date said communication took place;
- b. The person or group initiating and/or authoring the communication;
- c. The person or group receiving the communication;
- d. The substance and content of the communication;
- e. The identity of all others present when such communication was made;

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- f. The identity of all others present when such communication was received;
- g. The manner of the delivery of the communication; and
- h. Whether any record or memorandum of said communication exists.

ANSWER:

2. Between October 16, 2006 and June 18, 2007, please identify any and all meetings between any member of the City Council and any other member of the City Council at any time or place where the Application of the City of Rochelle was considered or discussed, excepting therefrom official meetings of the City Council or its committees and, with respect to each such meeting, identify:

- a. The date and time upon which said meeting took place;
- b. The location at which said meeting took place; and
- c. The names of all individuals who were present at said meeting.

ANSWER:

3. Between October 16, 2006 and June 18, 2007, state whether or not any member of the City Council gave or transferred anything of value or received anything of value from, or were promised anything of value by the City of Rochelle or Rochelle Waste Disposal, L.L.C., and/or any of their representatives or agents. If so, please identify:

- a. The name of the person or organization making the gift, transfer or promise;
- b. The name of the person or organization receiving the gift, transfer or promise;
- c. The date upon which the gift, transfer or promise was made; and
- d. The amount of the gift, transfer or promise.

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ANSWER:

4. Please identify and describe each City Council Member's association, if any, with the City of Rochelle and/or Rochelle Waste Disposal, L.L.C. "Association" is defined as being a member, representative or agent, having made a contribution payment, gift or transfer at any time to the organization or having attending a meeting of the organization. If so, please identify:

- a. The name of the City Council Member having said association;
- b. The inclusive dates of the association; and
- c. The nature of the association.

ANSWER:

5. Please identify any document or other writing relating to the Application, other than newspaper articles, editorials or letters to the editor, which document or writing is not part of the record filed by the City Council with the Pollution Control Board, in the possession or control of any City Council Member. As to each such document or other writing, please identify:

- a. The City Council Member having such document or writing;
- b. The nature of the document or writing; and
- c. The date upon which said City Council Member came into possession of said document or writing.

ANSWER:

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6. For the period between October 16, 2006 and June 18, 2007, please identify all communications in verbal, written or electronic form made by any City of Rochelle employee or Rochelle Waste Disposal, L.L.C. representative or agent, relating to the Application, excepting therefrom, communications in the form of official filings by Rochelle Waste Disposal, L.L.C., Concerned Citizens of Ogle County, and the City of Rochelle City Staff, and with respect to each such communication, please identify:

- a. The date said communication took place;
- b. The person or group initiating and/or authoring the communication;
- c. The person or group receiving the communication;
- d. The substance and content of the communication;
- e. The identity of all others present when such communication was made;
- f. The identity of all others present when such communication was received;
- g. The manner of the delivery of the communication; and
- h. Whether any record or memorandum of said communication exists.

ANSWER:

7. Before the hearings on the Application, dated Monday, January 22 through Friday, January 26, 2007 and Thursday, February 8, 2007, please state whether any member of the City Council had knowledge that certain requirements for an Application to be deemed complete had not been met, including lack of financial statements of the Operator, prior operating record, and parent company information.

ANSWER:

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8. Between October 16, 2006 and June 18, 2007, please identify any public comment made by the City of Rochelle or its employee(s), or an agent or representative of Rochelle Waste Disposal, L.L.C., which had been heard, seen, read, observed, or known about by any member of the City Council, and with respect to each public comment, please identify the following:

- a. The date of said public comment;
- b. The person or group making such public comment;
- c. The person or group hearing, seeing, reading, observing or knowing about such public comment; and
- d. The substance and content of such public comment.

ANSWER:

9. Between October 16, 2006 and June 18, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member to the Hearing Officer, or by the Hearing Officer to any City Council Member, relating to the Application and any and all public comment submissions, and with respect to each such communication, please identify:

- a. The date said communication took place;
- b. The person or group initiating and/or authoring the communication;
- c. The person or group receiving the communication;
- d. The substance and content of the communication;
- e. The identity of all others present when such communication was made;
- f. The identity of all others present when such communication was received;
- g. The manner of the delivery of the communication; and
- h. Whether any record or memorandum of said communication exists.

Electronic Filing, Received, Clerk's Office, June 18, 2007

ANSWER:

10. Please identify all documents in written or electronic form, which any Member of the City Council has seen, read or has knowledge about, submitted by the City of Rochelle, Rochelle Waste Disposal, L.L.C., and the Concerned Citizens of Ogle County, during the period March 11, 2007 to March 28, 2007, including any public comment, and with respect to each such communication, please identify:

- a. The date of said document;
- b. The person or group initiating and/or authoring the document;
- c. The person or group receiving the document;
- d. The substance and content of the document;
- e. The manner of the delivery of the communication; and
- f. Whether any record or memorandum of said communication exists.

Respectfully submitted,

CONCERNED CITIZENS OF OGLE
COUNTY

By: /s/ David L. Wentworth II
David L. Wentworth II
One of Their Attorneys

By: /s/ Emily R. Vivian
Emily R. Vivian
One of Their Attorneys

David L. Wentworth II
Emily R. Vivian
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROCHELLE WASTE DISPOSAL, L.L.C.,)
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vi.)
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THE CITY OF ROCHELLE, an Illinois) PCB 07-113
municipal corporation, and THE) (Third-Party Pollution Control Facility
ROCHELLE CITY COUNCIL,) Siting Appeal)
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CONCERNED CITIZENS OF OGLE)
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) (Third-Party Pollution Control Facility
THE CITY OF ROCHELLE, THE CITY) Siting Appeal)
COUNCIL OF THE CITY OF ROCHELLE,)
and ROCHELLE WASTE DISPOSAL,)
L.L.C.,)
)
Respondents.)

**REQUEST TO PRODUCE OF CONCERNED CITIZENS OF OGLE COUNTY,
PETITIONER, DIRECTED TO RESPONDENT, THE CITY COUNCIL OF THE CITY
OF ROCHELLE**

NOW COMES Petitioner, Concerned Citizens of Ogle County (“CCOC” or “Petitioner”), by and through its attorneys, David L. Wentworth II and Emily R. Vivian of Hasselberg, Williams, Grebe, Snodgrass & Birdsall, and hereby directs the City Council of the City of Rochelle, Respondent (the “City Council”), to produce at the office of Hasselberg, Williams, Grebe, Snodgrass & Birdsall, 124 SW Adams Street, Suite 360, Peoria, Illinois, 61602, within ten (10) days of service of this request (based on the Hearing Officer’s Order entered June 15,

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2007), or at such other time and place as may be agreed upon by the attorneys for the parties pursuant to 35 Ill. Adm. Code 101.616, for inspection, copying, reproduction and photocopying the following documents, objects or tangible things, to wit:

DEFINITIONS

1. **Document.** "Document" shall mean all documents, objects and tangible things, contemplated by the Illinois Code or the Illinois Administrative Code, including every original (and any copy of any original and any copy which differs in any way from any original) of every writing of every kind or description, whether handwritten, typed, drawn, sketched, or printed, including, without limitation, computer-generated or maintained data or reports, books, records, papers, pamphlets, brochures, circulars, plans, correspondence, emails, communications, telegrams, memoranda, notes, logs, notebooks, worksheets, reports, lists, analysis, appointment books, diaries, telephone bills and toll call records, expense reports, commission statements, confirmation statements, checkbooks, cancelled checks, receipts, contracts, agreements, instruments, assignments, applications, offers, acceptances, written memorials of oral communications, photographs, photographic slides or negative films, digital images, digital moving images, and film strips to which the City Council now has or has had access to in the past.

2. **Communication.** "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identify of person(s) to whom and by whom it was made, the date it was made, the

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circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

3. Relate to or Relating To. “Relate to” or “relating to” as used herein with reference to a subject shall mean both of the following:

a. Containing, comprising, consisting of, constituting, composed of, stating, setting forth or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject; and

b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

4. Any and All. As used herein “any” refers to any and all, and the term “all” likewise refers to any and all.

5. And/Or. “And” as well as “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope.

6. Any and all capitalized terms not defined herein should be ascribed the meanings given them in the Petition for Review.

7. City Council. “City Council” shall include, but not be limited to, all members of the City Council of the City of Rochelle, more specifically known as Mayor Chet Olson, Spencer Hayden, Bil Hayes, Dennis Berg, Dave Eckhardt, Wendell Colwill, and Kathy Hollonbeck; Donald J. Moran, attorney for the City Council of the City of Rochelle; Bruce McKinney, the City Clerk of the City of Rochelle; and John J. McCarthy, Hearing Officer, as agent for the City Council; and all other agents and representatives of the City Council of the City of Rochelle.

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INSTRUCTIONS

1. Any word written in the singular shall be construed as plural and any word written in the plural shall be construed as singular when necessary to facilitate complete answers.
2. All information requested is from October 16, 2006, to the date of compliance with this request, unless otherwise specifically indicated. If the answer is not uniformly applied to that entire period, each change within the period is to be indicated with the date of such change.
3. If any document requested is withheld on the ground of privilege, provide a log of all such documents, including: (a) a description of the subject of each document; (b) all persons who have knowledge of each such document, or any having knowledge regarding each such document, including without limitation the author of any document withheld; (c) the date and circumstance of any communication of such document, including without limitation the identification of the author(s), any addressee(s), indicated or blind carbon copy recipient(s), or other recipient(s); and (d) all grounds relied upon for not providing each such document.
4. If any document ascribed by this request has been lost, destroyed, discarded or otherwise disposed of, that document is to be identified as completely as possible.
5. If any information is redacted from a document produced pursuant to this request, that information is to be identified and described generally, and all grounds relief upon for not providing such information are to be fully set forth.
6. If any document described by this request no longer exists, or is no longer within your possession, custody or control, identify such document(s).
7. Identify in writing each paragraph of this request for which no responsive documents are produced.

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8. If, subsequent to your initial response, you come into possession of any document(s) that is (are) responsive to any of the following requests, you are requested to supplement the response accordingly.

DOCUMENTS TO BE PRODUCED

1. All documents in the possession or control of the City Council referring to the Application that were not included in the Record filed the City Clerk of the City of Rochelle.

2. Any document received or created by any member of the City Council referring to the Application that was not included in the Record filed with the City Clerk of the City of Rochelle.

3. All documents in the possession or control of the City Council referring to Rochelle Waste Disposal, L.L.C. that were not included in the Record filed with the City Clerk of the City of Rochelle.

4. Any document received or created by any member of the City Council referring to Rochelle Waste Disposal, L.L.C. that was not included in the Record filed with the City Clerk of the City of Rochelle.

5. All documents in the possession or control of the City Council received from the City Manager or any other representative or agent of the City of Rochelle that were not included in the Record filed with the City Clerk of the City of Rochelle.

6. Any document received by any member of the City Council from the City Manager or any other representative or agent of the City of Rochelle that was not included in the Record filed with the City Clerk of the City of Rochelle.

7. All documents in the possession or control of the City Council portraying the Rochelle Municipal Landfill #1 or any property located within one (1) mile of the Rochelle

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Municipal Landfill #1 that were not included in the Record filed with the City Clerk of the City of Rochelle.

8. Any document received or created by any member of the City Council portraying the Rochelle Municipal Landfill #1 or any property located within one (1) mile of the Rochelle Municipal Landfill #1 that was not included in the Record filed with City Clerk of the City of Rochelle.

9. All documents, including without limitation, notes, drafts, memoranda, correspondence and transcripts, considered by the City Council regarding the Application.

10. All documents, including without limitation, notes, drafts, memoranda, correspondence and transcripts, available to the City Council in its consideration of the Application.

11. All documents, including without limitation, notes, drafts, memoranda, correspondence and transcripts, considered by the staff of the City Council regarding the Application.

12. All documents, including without limitation, notes, drafts, memoranda, correspondence and transcripts, available to the staff of the City Council in their consideration of the Application.

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Respectfully submitted,

CONCERNED CITIZENS OF OGLE
COUNTY

By: /s/ David L. Wentworth II
David L. Wentworth II
One of Their Attorneys

By: /s/ Emily R. Vivian
Emily R. Vivian
One of Their Attorneys

David L. Wentworth II
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Facsimile: (309) 637-1500

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STATE OF ILLINOIS)
)
COUNTY OF PEORIA) SS

CERTIFICATE OF SERVICE AND FILING

The undersigned being first duly sworn on oath, states that a copy of the foregoing INTERROGATORIES OF CONCERNED CITIZENS OF OGLE COUNTY, PETITIONER, DIRECTED TO RESOPNDENT, THE CITY COUNCIL OF THE CITY OF ROCHELLE, was filed electronically with the Illinois Pollution Control Board and was served upon the following persons by enclosing copies of the same in separate envelopes, addressed as set forth below, and depositing said envelopes in a U.S. Postal Service mailbox in Peoria, Illinois, on the 18th day of June, 2007, 5:00 p.m. and by electronic mail, with all fees thereon fully prepaid and addressed as follows:

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601-3218
(312) 814-3620 – Telephone
(312) 814-3669 – Facsimile

Mr. Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

Mr. Donald J. Moran
Pedersen & Houpt
161 North Clark Street
Suite 3100
Chicago, IL 60601

Mr. Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford, IL 61101

Mr. Alan Cooper
City Attorney
233 East Route 38, Suite 202
P.O. Box 194
Rochelle, IL 61068

/s/ David L. Wentworth II
David L. Wentworth II

David L. Wentworth II
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