

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KIBLER DEVELOPMENT CORP. and
MARION RIDGE LANDFILL, INC.,
Petitioners,

v.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY,
Respondents.

PCB No. 2007-043

(Permit Appeal - Land)

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JUL 21 2008

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO:

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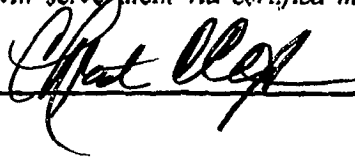
PLEASE TAKE NOTICE that on July 21, 2008, I filed, electronically, with the Illinois Pollution Control Board, the following: Petitioner's Appearance and Motion to Intervene, copies of which are attached hereto and served upon you.

Charles Garnati, State's Attorney
200 West Jefferson County Courthouse
Marion, IL 62959-3061
(618) 997-1301

By: _____

CERTIFICATE OF SERVICE

I, the undersigned, certify that served the foregoing Notice of Filing, along with copies of document(s) set forth in this Notice, on the above listed persons at the above listed e-mail addresses this 21st day of July 2008, via e-mail, and further will serve them via certified mail, return receipt on July 21, 2008.



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APPEARANCE

I hereby file my Appearance in this proceeding on behalf of Intervenor State's Attorney Charles Garnati *ex. rel* People of Williamson County.

STATE'S ATTORNEY CHARLES GARNATI

Charles R. Garnati

Name Charles Garnati. State's Attorney
Attorney for: Intervenor
Address 200 West Jefferson County Courthouse
City Marion, IL 62959-3061
Telephone (618) 997-1301

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MOTION TO INTERVENE

NOW COMES Intervener WILLIAMSON COUNTY STATE'S ATTORNEY CHARLES GARNATI *ex rel.* People of Williamson County and moves the Illinois Pollution Control Board to grant this Motion and allow his intervention in this pending matter. In support of this Motion, Intervener states as follows:

1. This Motion is filed pursuant to Sections of the Illinois Pollution Control Board Regulations Section 101.402 and Section 5/3-9005(a)(1) of the Illinois Counties Code (55 ILCS 5/3-9005(a)(1), 35 IAC 101.042).

2. This Petition is filed by the State's Attorney of Williamson County, Charles Garnati, in his official capacity, on behalf of the People of Williamson County. This Board and Illinois Court have acknowledged the particular duties of State's Attorneys' embodied in the Illinois Counties Code that give them standing in actions that, ordinarily, other third-parties lack. *E.g. Land and Lakes Co. v. PCB*, 245 Ill.App.3d 361, 616 N.E.2d 349, 354-355 (3rd Dist. 1993)(State's Attorney allowed to intervene in permit appeal); *Pioneer Processing Inc. v. EPA*, 102 Ill.2d 119, 464 N.E.2d 238 (S.Ct. 1984)(Attorney General allowed to seek review of a Board decision in a landfill permit appeal); *AFSCME v. Ryan, et al.*, 347 Ill.App.3d 732, 807 N.E.2d 1235 (5th Dist. 2004)(without specific statutory authority under the Illinois Health Facilities Planning Act, State's Attorney allowed to enjoin closure of state mental health facility

and require it to follow procedures of that act); *Saline County v. IEPA*, PCB 02-108 (April 18, 2002)(State's Attorney intervened in permit appeal).

3. Specifically, this Board has consistently allowed State's Attorneys to intervene in already pending permit appeals. *Pioneer Processing, Inc. v. Environmental Protection Agency* 102 Ill. 2d 119, 464 N.E.2d 238, 79 Ill. Dec. 640 (1984); *Land and Lakes Co. v. PCB*, 245 Ill.App.3d 361, 616 N.E.2d 349, 354-355 (3rd Dist. 1993)(State's Attorney allowed to intervene in permit appeal); *Saline County v. IEPA*, PCB 02-108 (April 18, 2002)(State's Attorney intervened in permit appeal).

4. Although the Board recently held that the State's Attorney could not *initiate* a permit appeal, nowhere in that decision did the Board overrule its prior precedent allowing State's Attorneys intervention in already pending permit appeals. *People of Williamson County ex rel. v. Kibler Development Corp., et al.*, PCB 08-93 (July 10, 2008).

5. The State's Attorney's intervention will not unduly delay or materially prejudice the proceeding or otherwise interfere with an orderly or efficient proceeding. The State's Attorney is not requesting a change in any scheduling already set by either Board or Hearing Officer Order. Further, the State's Attorney is not requesting any new discovery and only seeks copies of what has already been produced or exchange between the parties in this case.

WHEREFORE, WILLIAMSON COUNTY STATE'S ATTORNEY CHARLES GARNATI *ex rel.* People of Williamson County, as Intervener, respectfully requests the Board to allow his intervention in this already pending permit appeal.

CHARLES GARNATI
Williamson County State's Attorney



Charles Garnati, State's Attorney
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200 West Jefferson County Courthouse
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