

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF WILLIAMSON COUNTY *ex rel.* )  
STATE'S ATTORNEY CHARLES GARNATI, and )  
THE WILLIAMSON COUNTY BOARD, )

Petitioners, )

PCB No. 08-093

v. )

KIBLER DEVELOPMENT CORPORATION, )  
MARION RIDGE LANDFILL, INC., and )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondents.

**NOTICE OF FILING**

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on August 14, 2008, we electronically filed with the Clerk of the Illinois Pollution Control Board, Williamson County State's Attorney, Charles Garnati's Motion for Reconsideration and Brief in Support, copies of which are attached hereto and hereby served upon you.

Dated: August 14, 2008

Respectfully submitted,

On behalf of HAMMAN FARMS

/s/  
\_\_\_\_\_  
Michael John Ruffley  
One of Its Attorneys

Michael John Ruffley  
Assistant State's Attorney  
200 West Jefferson  
Marion, IL 62703

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PCB No. 08-093

**WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI'S MOTION  
FOR RECONSIDERATION**

NOW COMES WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI *ex rel.*, People of Williamson County, pursuant to 35 Ill.Adm.Code 101.520, and moves this Honorable Board to reconsider its order of July 10, 2008, stating as follows:

1. A motion for reconsideration may be used to call the Board's attention to newly discovered evidence, changes in the law, or errors in application of the existing law. The *Citizens Against Regional Landfill v. County Board of Whiteside*, PCB 93-156 (Mar. 11, 1993) (citing *Korogluyan v. Chicago Title & Trust Co.*, 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992)). Here, the Board is urged to reconsider its application of existing law.

2. In its July 10, 2008 order dismissing this case based upon a lack of standing, the Board erroneously relied upon a 1978 case, *Landfill, Inc. v. PCB*, 74 Ill.2d 541, 387 N.E.2d 258, 25 Ill.Dec. 602 (1978), which addressed limitations on the third party rights of ordinary citizens. However, the Board failed to apply relevant precedent from subsequent decisions which have established that, as constitutional office-holders, State's Attorneys possess special rights that are distinct from, and greater than, the third-party rights of ordinary citizens.

3. In *Pioneer Processing, Inc. v. E.P.A.*, 102 Ill.2d 119, 464 N.E.2d 238, 79 Ill.Dec. 640 (1984), the Illinois Supreme Court reversed a ruling that had been based upon a narrow reading of prior precedent, which had held that an Attorney General lacked standing; the Supreme Court held that an Attorney General's responsibilities are not limited to serving or representing individual interests, but instead, "embrac[e] serving or representing broader interests of the State," and therefore the Attorney General "has the duty and authority to represent the interests of the People of the State to insure a healthful environment." *Id.* at 138. (emphasis added).

4. Thereafter, in *Land and Lakes v. P.C.B.*, 245 Ill.App.3d 631, 640, 616 N.E.2d 349, 186 Ill.Dec. 396 (3<sup>rd</sup> Dist. 1993), the Illinois Appellate Court found that because a State's Attorney, like an Attorney General, is a constitutional office-holder, a State's Attorney similarly has "the duty and authority to represent the interests of the People of the State to insure a healthful environment," and, accordingly, possesses "third-party" rights that differ from those of ordinary citizens. *See id.* (emphasis added). The Appellate Court went on to hold that the State's Attorney could intervene in the proceedings before the Board.

5. In its July 10, 2008 order dismissing this action, this Board declined to apply the holdings in *Land and Lakes* and *Pioneer Processing*, in which Illinois Courts held that constitutional office-holders such as State's Attorneys have special status and rights that are different from the third-party rights of ordinary citizens; the Board instead relied upon the limiting language in *Landfill, Inc.*, which focused solely on the limited appeal rights possessed by ordinary citizens, and which was decided fifteen years before *Land and Lakes*, and six years before the Supreme Court issued its opinion in *Pioneer Processing*. This represents an erroneous application of the law.

6. The Board also misapplied the law by distinguishing the cases which established the special rights of State's Attorneys by essentially interpreting those cases to hold that State's Attorneys possess special rights with respect to intervention, but have no special rights with respect to the initiation of an action. This reading focuses on a distinction without a difference. The importance of respecting the constitutional office-holders' duty to represent the interests of the People to preserve a healthful environment, as recognized in *Land and Lakes* and in *Pioneer Processing*, cannot logically turn on whether the applicant chose to appeal an improper action by the Agency.

7. It is imperative that the Board review the Agency's decision which is challenged in this case, because it represents a permit modification that was granted not to protect the environment and public safety, but, instead, as part of a deal the Agency struck with a landfill operator in order to put an end to troublesome litigation. In so doing, the Agency made sweeping modifications to a MSWLF permit without affording any opportunity whatsoever for public input, and in derogation of the siting which was granted in 1995, by default, pursuant to Section 39.2 of the Environmental Protection Act.

8. The challenged decision authorizes construction of a MSWLF within two miles of a public airport, in violation of FAA-mandated setbacks, and contrary to the limitations of 49 U.S.C. § 44718(d), as amended by section 503 of the Wendell H. Ford Aviation Investment and Reform Act, which prohibits siting a MSWLF within six miles of a public airport.<sup>1</sup> Moreover, the original siting was obtained by default thirteen years ago, in 1995, and therefore reflects stale and inaccurate information concerning conditions in the surrounding area; notably, the aviation setbacks recognizing the dangers of bird strikes were enacted subsequent to 1995.

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<sup>1</sup> (without obtaining the required exemption)

9. The challenged decision also improperly authorizes construction of a MSWLF across a public, township roadway, disregarding the fact that the County Superintendent of Highways previously rejected a petition to vacate the roadway in question. Moreover, there is no provision in the permit to provide for changes to the project if the public roadway can not, as seems likely, be vacated.

WHEREFORE, WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI *ex rel*, People of Williamson County, for the reasons set forth herein and in the accompanying brief in support of this motion, respectfully requests, pursuant to 35 Ill. Adm. Code 101.520, that this Honorable Board reconsider its order of July 10, 2008, and find that the State's Attorney has standing to pursue this action seeking review of the challenged decision by the Illinois Environmental Protection Agency.

Dated: August 14, 2008 Respectfully submitted,

/s/  
Michael John Ruffley

Michael John Ruffley  
Assistant State's Attorney  
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(618) 997-5449

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PCB No. 08-093

**WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI'S BRIEF IN  
SUPPORT OF HIS MOTION FOR RECONSIDERATION**

NOW COMES WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI *ex rel.*, People of Williamson County, pursuant to 35 Ill. Adm. Code 101.520, and for his Brief in Support of his Motion for Reconsideration, states as follows:

**BACKGROUND**

This action was initiated by the State's Attorney of Williamson County ("State's Attorney") to protect the health, safety and welfare of the people of Williamson County, by challenging the Illinois Environmental Protection Agency's decision to settle litigation with Co-Respondents Kibler Development Corporation ("Kibler") and Marion Ridge Landfill, Inc., ("Marion Ridge") by acceding to demands for the alteration of a municipal solid waste landfill ("MSWLF") permit for a facility to be located in Williamson County.

The Agency's decision to compromise the safety and welfare of Williamson County's citizens in order to end troublesome litigation has resulted in a violation of State and Federal law, including the Environmental Protection Act ("the Act"), and, as a result, the State's Attorney was duty-bound to challenge it.

Respondents objected to the State's Attorney's challenge, and filed motions to dismiss. Relying on a decision from 1978, *Landfill, Inc. v. PCB*, 74 Ill.2d 541, 387 N.E.2d 258 (1978), the Board granted those motions based on its conclusion that the State's Attorney's lacked standing.

### Argument

The Board has stated that "the intended purpose of a motion for reconsideration is to bring to the court's attention newly discovered evidence which was not available at the time of hearing, changes in the law or errors in the court's previous application of the existing law." *Citizens Against Regional Landfill v. County Board of Whiteside*, PCB 93-156 (Mar. 11, 1993) (citing *Korogluyan v. Chicago Title & Trust Co.*, 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992)). Here, the State's Attorney brings this Motion for Reconsideration based upon the last category: errors in application of existing law.

The Board's July 10, 2008 order finding that the State's Attorney lacked standing was predicated on a 1978 case, *Landfill, Inc.*, which referenced the statutory limitations on the third party rights of ordinary citizens to appeal. *Landfill, Inc. v. PCB*, 74 Ill.2d 541, 387 N.E.2d 258 (1978). However, the Board failed to apply the precedent from decisions that followed *Landfill, Inc.*, which established that as constitutional office-holders, State's Attorneys have special duties, status, and rights that are distinct from the third-party rights of ordinary citizens.

1. **The Board Should Reconsider and Apply Binding Illinois Precedent Which Establishes that the Duties, Status, and Rights of Constitutional Office-Holders Differ From Those of Ordinary Third-Parties**

The Illinois Supreme Court observed in *Pioneer Processing, Inc. v. E.P.A.*, 102 Ill.2d 119, 464 N.E.2d 238, 79 Ill.Dec. 640 (1984), that it has consistently held, under the State constitution, that the Attorney General acts as "the law officer of the people." 102 Ill.2d at 137,

citing *E.P.A. v. P.C.B.*, 69 Ill.2d 394, 372 N.E.2d 50, 14 Ill.Dec. 245. In rejecting the notion that the Attorney General lacked standing to appeal in *Pioneer Processing* because he had not been a party to the proceedings below – a ruling which had been based upon a narrow reading of prior precedent – the Court observed that:

as chief legal officer of this State, [the Attorney General] has the duty and authority to represent the interests of the People of the State to insure a healthful environment. In recognition of the Attorney General's role to insure a healthful environment, he has been given the power and authority 'to prevent air, land or water pollution within this State by commencing an action or proceeding in the circuit court of any county in which pollution has been, or is about to be, caused or has occurred, in order to have such pollution stopped or prevented either by mandamus or injunction.' (citation omitted). If, in fact, the Agency failed to afford the citizens of this State the proper procedures relating to the issuance of Pioneer's permit, then we believe it is only proper for the Attorney General to be the People's representative...

*Pioneer Processing*, 102 Ill.2d at 138, 464 N.E.2d at 247 (emphasis added).

The Court further observed that "there is a strong public interest in a healthful environment," and noted that an Attorney General's responsibilities are not limited to serving or representing particular, individual interests, but instead, "embrac[e] serving or representing broader interests of the State." *Id.* (emphasis added).

Thereafter, in *Land and Lakes v. P.C.B.*, 245 Ill.App.3d 631, 640, 616 N.E.2d 349, 355 (3<sup>rd</sup> Dist. 1993), the Illinois Appellate Court held that because a State's Attorney, like an Attorney General, is a constitutional office-holder, he has "the duty and authority to represent the interests of the People of the State to insure a healthful environment." *Id.* (quoting *Pioneer Processing*) (emphasis added). In *Land and Lakes*, the Pollution Control Board had observed that the "third-party" rights of a State's Attorney or Attorney General differ from those of ordinary citizens, and on appeal, the Appellate Court agreed with the Board's recognition of the special third-party rights possessed by State's Attorneys. *See id.*



More recently, in *Saline Co. Landfill v. IEPA*, PCB 02-108 (April 18, 2002), this Board acknowledged the Appellate Court's holding in *Land and Lakes* that the rights of State's Attorneys and Attorneys General are analogous. *Id.* at 3. The Board therefore held that the County had standing to participate in the proceedings, and indeed should participate because the facts suggested its citizens "may be materially prejudiced absent the County's intervention." *Id.*

Here, in its July 10, 2008 order dismissing this action, this Board declined to apply the holdings in *Land and Lakes* and *Pioneer Processing*, in which the courts recognized the special duties, status and rights of constitutional office-holders who are charged with protecting public health and safety, and in which they observed that those rights differ from the third-party rights of ordinary citizens. Disregarding those special rights, the Board here based its decision upon the limiting language in *Landfill* (which was decided fifteen years before *Land and Lakes*, and six years before the Supreme Court weighed in on the issue in *Pioneer Processing*), which focused solely on the limited appeal rights possessed by ordinary citizens. Accordingly, the Board declared that the State's Attorney lacked standing based on "the Supreme Court's holding in *Landfill, Inc.*"

The Board not only fails to consider the special status of constitutional office-holders, as recognized in cases decided subsequent to *Landfill, Inc.*, it also puts form ahead of substance by differentiating this case from prior decisions recognizing the special rights of State's Attorneys by pointing to the distinction between the right to intervene, and the right to initiate an action. The Board thereby intimates that if *someone else* had initiated this challenge, the State's Attorney could have participated and acted to protect public safety and represent the interests of the People, but, because no one else took that first step, he is prohibited from protecting public safety and representing the interests of the People. The existence of the People's right to be



which are attracted to MSWLF facilities. Here, the bird-strike situation is even more critical because of the site's proximity to a wildlife sanctuary.

Moreover, the Agency's alterations to the permit change the type of waste to be disposed of at the site, thereby abrogating the siting approval granted by the local siting authority pursuant to 415 ILCS 5/39.2.

The challenged permit also authorizes construction of the facility across a public township road (Crenshaw Road), despite the fact that a petition to vacate Crenshaw Road has been rejected by County Superintendent of Highways. (See attached Group Exhibit B). Even if the County wanted to vacate Crenshaw Road, it is not lawfully able to decide to close a township road, because such closure is subject to State law procedures. *See* 605 ILCS 5/6-303, 6-305, and 6-306. In addition, there is no evidence that IEPA ever analyzed the public health, safety, welfare, or other impacts that would result from the closure of Crenshaw Road, or, the changes that would have to be made to the landfill if Crenshaw Road could not be closed and the proposed landfill was to be constructed without closure.

Honoring his duty to represent the interests of the people of this State and his responsibility for ensuring a healthful environment, and given the foregoing significant concerns, the State's Attorney sought Board review of that Agency decision.

**3. This Case Raises Issues Similar to Those Raised in *Pioneer Processing***

In *Pioneer Processing*, the Supreme Court criticized the Agency's decision to issue a permit predicated, at least in part, on evidence not adduced during public hearings. 102 Ill.2d at 140-41, 464 N.E.2d at 248. The Court explained that where Agency decision-making occurs without the benefit of public scrutiny, it seemingly moots the purpose behind public hearings. *Id.* The Court further observed that the legislature did not impose the public hearing requirement in order to create only the *illusion* that public scrutiny is vital to the decision-making process. *Id.*

Here, in order to dispose of troublesome litigation, the Agency made a tactical decision to unilaterally alter the permit for Marion Ridge Landfill, and in so doing, it made changes that violate State and Federal law. As noted above, the resulting permit authorized the permittee to begin construction of a MSWLF within two miles of the Williamson County Regional Airport, notwithstanding the fact that FAA setbacks and the Ford Act expressly prohibit such construction. The permit also changed the type of waste to be disposed of at the site, in contrast with the type of waste approved by the local siting authority, thereby effectively depriving the local siting authority of its statutory right under 415 ILCS 5/39.2 to approve or deny siting based on the statutory criteria.

Finally, the altered permit is predicated on the vacation of Crenshaw Road, despite the fact that the County Superintendent of Highways previously determined that Crenshaw Road could not be vacated, despite the fact that IEPA has conducted no inquiry into the health or safety impacts of closing the road, and in disregard of the statutory procedures that govern the closure of township roads.

The decision to effectuate these unilateral permit alterations without allowing any input whatsoever from the public, in violation of State and Federal law, and in derogation of the local siting approval under Section 39.2, not only violates the law, it places the safety and welfare of the people of Williamson County at risk.

For these reasons, the State's Attorney had a duty to represent the interests of the People by initiating this action for Board review of the Agency's decision.

### **Conclusion**

By relying solely on a narrow reading of *Landfill, Inc.* to decide this case, the Board focused all of its attention on the limitations that apply to the third-party rights of ordinary

citizens, without taking into consideration the grave responsibilities vested in State's Attorneys to act not in furtherance of their own interests, but rather, in furtherance of the interests of the People, as acknowledged by the Appellate Court in *Land and Lakes* and by the Supreme Court in *Pioneer Processing*, both of which were decided subsequent to *Landfill, Inc.*

For the foregoing reasons, the Petitioner respectfully suggests that the Board's analysis and order reflect an error in the application of existing law, and the Board is accordingly urged to reconsider its July 10, 2008 order, find that the State's Attorney has standing to pursue this action, and order reinstatement of this case.

WHEREFORE, WILLIAMSON COUNTY STATE'S ATTORNEY, CHARLES GARNATI *ex rel.*, People of Williamson County respectfully requests, pursuant to 35 Ill.Adm.Code 101.520, that this Honorable Board reconsider its order of July 10, 2008, find that the State's Attorney has standing to pursue this action, and reinstate this action.

Dated: August 14, 2008 Respectfully submitted,

/s/  
Michael John Ruffley

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U.S. Department  
of Transportation

Federal Aviation  
Administration

# Advisory Circular

**Subject:** CONSTRUCTION OR  
ESTABLISHMENT OF LANDFILLS NEAR  
PUBLIC AIRPORTS

**Date:** January 26, 2006  
**Initiated by:** AAS-300

**AC No:** 150/5200-34A  
**Change:**

## 1. Purpose.

This advisory circular (AC) contains guidance on complying with Federal statutory requirements regarding the construction or establishment of landfills near public airports.

## 2. Application.

The guidance contained in the AC is provided by the Federal Aviation Administration (FAA) for use by persons considering the construction or establishment of a new municipal solid waste landfill (MSWLF) near a public airport. Guidance contained herein should be used to comply with MSWLF site limitations contained in 49 U.S.C. § 44718(d), as amended by section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century, Pub. L. No. 106-181 (April 5, 2000), "Structures interfering with air commerce." In accordance with § 44718(d), as amended, these site limitations are not applicable in the State of Alaska.

In addition, this AC provides guidance for a state aviation agency desiring to petition the FAA for an exemption from the requirements of § 44718(d), as amended.

## 3. Cancellation

This AC cancels AC 150/52300-34, *Construction or Establishment of Landfills Near Public Airports*, dated August 8, 2000.

This revision contains no substantive changes to the original. Changes include revised and new website addresses, revised strike statistics, and regulation titles.

## 4. Related Reading Materials.

AC - 150/5200-33, *Hazardous Wildlife Attractions On or Near Airports*.

*Wildlife Strikes to Civil Aircraft in the United States*. FAA Wildlife Aircraft Strike Database Serial Reports.

Report to Congress: *Potential Hazards to Aircraft by Locating Waste Disposal Sites in the Vicinity of Airports*, April 1996, DOT/FAA/AS/96-1.

Title 14, Code of Federal Regulation, Part 139, Certification of Airports.

Title 40, Code of Federal Regulation, Part 258, Municipal Solid Waste Landfill Criteria.

Some of these documents and additional information on wildlife management, including guidance on landfills, are available on the FAA's Airports web site at <http://www.faa.gov/airports/airtraffic/airports/> or <http://wildlife-mitigation.tc.faa.gov>

## **5. Definitions.**

Definitions for the specific purpose of this AC are found in Appendix 1.

## **6. Background.**

The FAA has the broad authority to regulate and develop civil aviation under the Federal Aviation Act of 1958, 49 U.S.C. § 40101, et. seq., and other Federal law. In section 1220 of the Federal Aviation Reauthorization Act of 1996, Pub. L. No. 104-264 (October 9, 1996), the Congress added a new provision, section (d), to 49 U.S.C. § 44718 to be enforced by the FAA and placing limitations on the construction or establishment of landfills near public airports for the purposes of enhancing aviation safety. Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21), Pub. L. No. 106-181 (April 5, 2000) replaced section 1220 of the 1996 Reauthorization Act, 49 U.S.C. § 44718 (d), with new language. Specifically, the new provision, § 44718(d), as amended, was enacted to further limit the construction or establishment of a municipal solid waste landfill (MSWLF) near certain smaller public airports.

In enacting this legislation, Congress expressed concern that a MSWLF sited near an airport poses a potential hazard to aircraft operations because such a waste facility attracts birds. Statistics support the fact that bird strikes pose a real danger to aircraft. An estimated 87 percent of the collisions between wildlife and civil aircraft occurred on or near airports when aircraft are below 2,000 feet above ground level (AGL). Collisions with wildlife at these altitudes are especially dangerous as aircraft pilots have minimal time to recover from such emergencies.

The FAA National Wildlife Aircraft Strike Database shows that more than 59,000 civil aircraft sustained reported strikes with wildlife from 1990 to 2004. Between 1990-2004, aircraft-wildlife strikes involving U. S. civil aircraft resulted in over \$495 million/year worth of aircraft damage and associated losses and over 631,000 hours/year of aircraft down time.

From 1990 to 2004, waterfowl, gulls and raptors were involved in 77% of the 3,493 reported damaging aircraft-wildlife strikes where the bird was identified. Populations of Canada geese and many species of gulls and raptors have increased markedly over the last several years. Further, gulls and Canada geese have adapted to urban and suburban environments and, along with raptors and turkey vultures, are commonly found feeding or loafing on or near landfills.

In light of increasing bird populations and aircraft operations, the FAA believes locating landfills in proximity to airports increases the risk of collisions between birds and aircraft. To address this concern, the FAA issued AC 150/5200-33, *Hazardous Wildlife Attractions On or Near Airports*, to provide airport operators and aviation planners with guidance on minimizing wildlife attractants. AC 150/5200-33 recommends against locating municipal solid waste landfills within five statute miles of an airport if the landfill may cause hazardous wildlife to move into or through the airport's approach or departure airspace.

## **7. General.**

Using guidance provided in the following sections, persons considering construction or establishment of a landfill should first determine if the proposed facility meets the definition of a new MSWLF (see Appendix 1). Section 44718(d), as amended, applies only to a new MSWLF. It does not apply to the expansion or modification of an existing MSWLF, and does not apply in the State of Alaska. If the proposed landfill meets the definition of a new MSWLF, its proximity to certain public airports (meeting the criteria specified in Paragraph 8 below) should be determined. If it is determined that a new MSWLF would be located within six miles of such a public airport, then either the MSWLF should be planned for an alternate location more than 6 miles from the airport, or the MSWLF proponent should request the appropriate State aviation agency to file a petition for an exemption from the statutory restriction.

In addition to the requirements of § 44718(d), existing landfill restrictions contained in AC 150/5200-33, *Hazardous Wildlife Attractions On or Near Airports* (see Paragraph 5, Background) also may be applicable. Airport operators that have accepted Federal funds have obligations under Federal grant assurances to operate their facilities in safe manner and must comply with standards prescribed in advisory circulars, including landfill site limitations contained in AC 150/5200-33.

## **8. Landfills Covered by the Statute.**

The limitations of § 44718(d), as amended, only apply to a new MSWLF (constructed or established after April 5, 2000). The statutory limitations are not applicable where construction or establishment of a MSWLF began on or before April 5, 2000, or to an existing MSWLF (received putrescible waste on or before April 5, 2000). Further, an existing MSWLF that is expanded or modified after April 5, 2000, would not be held to the limitations of § 44718(d), as amended.

## **9. Airports Covered by the Statute.**

The statutory limitations restricting the location of a new MSWLF near an airport apply to only those airports that are recipients of Federal grants (under the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, *et seq.*) and primarily serve general aviation aircraft and scheduled air carrier operations using aircraft with less than 60 passenger seats.

While the FAA does not classify airports precisely in this manner, the FAA does categorize airports by the type of aircraft operations served and number of annual passenger enplanements. In particular, the FAA categorizes public airports that serve air carrier operations. These airports are known as commercial service airports, and receive scheduled passenger service and have 2,500 or more enplaned passengers per year.

One sub-category of commercial service airports, nonhub primary airports, closely matches the statute requirement. Nonhub primary airports are defined as commercial service airports that enplane less than 0.05 percent of all commercial passenger enplanements (0.05 percent equated to 352,748 enplanements in 2004) but more than 10,000 annual enplanements. While these enplanements consist of both large and small air carrier operations, most are conducted in aircraft with less than 60 seats. These airports also are heavily used by general aviation aircraft, with an average of 81 based aircraft per nonhub primary airport.



In addition, the FAA categorizes airports that enplane 2,500 to 10,000 passengers annually as non-primary commercial service airports, and those airports that enplane 2,500 or less passengers annually as general aviation airports. Both types of airports are mainly used by general aviation but in some instances, they have annual enplanements that consist of scheduled air carrier operations conducted in aircraft with less than 60 seats. Of the non-primary commercial service airports and general aviation airports, only those that have scheduled air carrier operations conducted in aircraft with less than 60 seats would be covered by the statute. The statute does not apply to those airports that serve only general aviation aircraft operations.

To comply with the intent of the statute, the FAA has identified those airports classified as nonhub primary, non-primary commercial service and general aviation airports that:

1. Are recipients of Federal grant under 49 U.S.C. § 47101, et. seq.;
2. Are under control of a public agency;
3. Serve scheduled air carrier operations conducted in aircraft with less than 60 seats; and
4. Have total annual enplanements consisting of at least 51% of scheduled air carrier enplanements conducted in aircraft with less than 60 passenger seats.

Persons considering construction or establishment of a new MSWLF should contact the FAA to determine if an airport within six statute miles of the new MSWLF meets these criteria (see paragraph 11 below for information on contacting the FAA). If the FAA determines the airport does meet these criteria, then § 44718(d), as amended, is applicable.

An in-depth explanation of how the FAA collects and categorizes airport data is available in the FAA's National Plan of Integrated Airport Systems (NPIAS). This report and a list of airports classified as nonhub primary, non-primary commercial service and general aviation airports (and associated enplanement data) are available on the FAA's Airports web site at [http://www.faa.gov/airports/airtraffic/airports/planning\\_capacity/](http://www.faa.gov/airports/airtraffic/airports/planning_capacity/).

#### **10. Separation distance measurements.**

Section 44718(d), as amended, requires a minimum separation distance of six statute miles between a new MSWLF and a public airport. In determining this distance separation, measurements should be made from the closest point of the airport property boundary to the closest point of the MSWLF property boundary. Measurements can be made from a perimeter fence if the fence is co-located, or within close proximity to, property boundaries. It is the responsibility of the new MSWLF proponent to determine the separation distance.

#### **11. Exemption Process.**

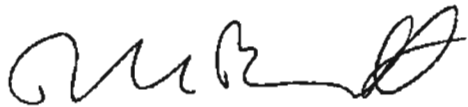
Under § 44718(d), as amended, the FAA Administrator may approve an exemption from the statute's landfill location limitations. Section 44718(d), as amended, permits the aviation agency of the state in which the airport is located to request such an exemption from the FAA Administrator. Any person desiring such an exemption should contact the aviation agency in the state in which the affected airport is located. A list of state aviation agencies and contact information is available at the National Association of State Aviation Officials (NASAO) web site at [www.nasao.org](http://www.nasao.org) or by calling NASAO at (301) 588-1286.

A state aviation agency that desires to petition the FAA for an exemption should notify the Regional Airports Division Manager, in writing, at least 60 days prior to the construction of a MSWLF. The petition should explain the nature and extent of relief sought, and contain information, documentation, views, or arguments that demonstrate that an exemption from the statute would not have an adverse impact on aviation safety. Information on contacting FAA Regional Airports Division Managers can be found on the FAA's web site at [www.faa.gov](http://www.faa.gov).

After considering all relevant material presented, the Regional Airports Division Manager will notify the state agency within 30 days whether the request for exemption has been approved or denied. The FAA may approve a request for an exemption if it is determined that such an exemption would have no adverse impact on aviation safety.

**12. Information.**

For further information, please contact the FAA's Office of Airport Safety and Standards, Airport Safety and Operations Division, at (800) 842-8736, Ext. 7-3085 or via email at [WebmasterARP@faa.gov](mailto:WebmasterARP@faa.gov). Any information, documents and reports that are available on the FAA web site also can be obtained by calling the toll-free telephone number listed above.

A handwritten signature in black ink, appearing to read 'DLB', with a stylized flourish at the end.

DAVID L. BENNETT  
Director, Office of Airport Safety and Standards

#### **APPENDIX 1. DEFINITIONS.**

The following are definitions for the specific purpose of this advisory circular.

**Construct a municipal solid waste landfill (MSWLF)** means excavate or grade land, or raise structures, to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting authority.

**Establish a municipal solid waste landfill (MSWLF)** means receive the first load of putrescible waste on site for placement in a prepared municipal solid waste landfill.

**Existing municipal solid waste landfill (MSWLF)** means a municipal solid waste landfill that received putrescible waste on or before April 5, 2000.

**General aviation aircraft** means any civil aviation aircraft not operating under 14 CFR Part 119, Certification: Air carriers and commercial operators.

**Municipal solid waste landfill (MSWLF)** means publicly or privately owned discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR § 257.2. A MSWLF may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste, as defined under 40 CFR § 258.2. A MSWLF may consist of either a standalone unit or several cells that receive household waste.

**New municipal solid waste landfill (MSWLF)** means a municipal solid waste landfill that was established or constructed after April 5, 2000.

**Person(s)** means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them (14 CFR Part 1).

**Public agency** means a State or political subdivision of a State; a tax-supported organization; or an Indian tribe or pueblo (49 U.S.C. § 47102(15)).

**Public airport** means an airport used or intended to be used for public purposes that is under the control of a public agency; and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft is publicly owned (49 U.S.C. § 47102(16)).

**Putrescible waste** means solid waste which contains organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for birds (40 CFR § 257.3-8).

**Scheduled air carrier operation** means any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator for which the air carrier, commercial operator, or their representatives offers in advance the departure location, departure time, and arrival location. It does not include any operation that is conducted as a supplemental operation under 14 CFR Part 119, or is conducted as a public charter operation under 14 CFR Part 380 (14 CFR § 119.3).

**Solid waste** means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) (40 CFR § 258.2).



U.S. Department  
of Transportation

Federal Aviation  
Administration

# Advisory Circular

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**Subject: HAZARDOUS WILDLIFE  
ATTRACTANTS ON OR NEAR  
AIRPORTS**

**Date:** 8/28/2007

**AC No:** 150/5200-33B

**Initiated by:** AAS-300

**Change:**

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1. **PURPOSE.** This Advisory Circular (AC) provides guidance on certain land uses that have the potential to attract hazardous wildlife on or near public-use airports. It also discusses airport development projects (including airport construction, expansion, and renovation) affecting aircraft movement near hazardous wildlife attractants. Appendix 1 provides definitions of terms used in this AC.

2. **APPLICABILITY.** The Federal Aviation Administration (FAA) recommends that public-use airport operators implement the standards and practices contained in this AC. The holders of Airport Operating Certificates issued under Title 14, Code of Federal Regulations (CFR), Part 139, Certification of Airports, Subpart D (Part 139), may use the standards, practices, and recommendations contained in this AC to comply with the wildlife hazard management requirements of Part 139. Airports that have received Federal grant-in-aid assistance must use these standards. The FAA also recommends the guidance in this AC for land-use planners, operators of non-certificated airports, and developers of projects, facilities, and activities on or near airports.

3. **CANCELLATION.** This AC cancels AC 150/5200-33A, *Hazardous Wildlife Attractants on or near Airports*, dated July 27, 2004.

4. **PRINCIPAL CHANGES.** This AC contains the following major changes, which are marked with vertical bars in the margin:

- a. Technical changes to paragraph references.
- b. Wording on storm water detention ponds.
- c. Deleted paragraph 4-3.b, *Additional Coordination*.

5. **BACKGROUND.** Information about the risks posed to aircraft by certain wildlife species has increased a great deal in recent years. Improved reporting, studies, documentation, and statistics clearly show that aircraft collisions with birds and other wildlife are a serious economic and public safety problem. While many species of wildlife can pose a threat to aircraft safety, they are not equally hazardous. Table 1

8/28/2007

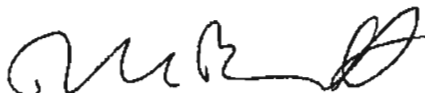
AC 150/5200-33B

ranks the wildlife groups commonly involved in damaging strikes in the United States according to their relative hazard to aircraft. The ranking is based on the 47,212 records in the FAA National Wildlife Strike Database for the years 1990 through 2003. These hazard rankings, in conjunction with site-specific Wildlife Hazards Assessments (WHA), will help airport operators determine the relative abundance and use patterns of wildlife species and help focus hazardous wildlife management efforts on those species most likely to cause problems at an airport.

Most public-use airports have large tracts of open, undeveloped land that provide added margins of safety and noise mitigation. These areas can also present potential hazards to aviation if they encourage wildlife to enter an airport's approach or departure airspace or air operations area (AOA). Constructed or natural areas—such as poorly drained locations, detention/retention ponds, roosting habitats on buildings, landscaping, odor-causing rotting organic matter (putrescible waste) disposal operations, wastewater treatment plants, agricultural or aquaculture activities, surface mining, or wetlands—can provide wildlife with ideal locations for feeding, loafing, reproduction, and escape. Even small facilities, such as fast food restaurants, taxicab staging areas, rental car facilities, aircraft viewing areas, and public parks, can produce substantial attractions for hazardous wildlife.

During the past century, wildlife-aircraft strikes have resulted in the loss of hundreds of lives worldwide, as well as billions of dollars in aircraft damage. Hazardous wildlife attractants on and near airports can jeopardize future airport expansion, making proper community land-use planning essential. This AC provides airport operators and those parties with whom they cooperate with the guidance they need to assess and address potentially hazardous wildlife attractants when locating new facilities and implementing certain land-use practices on or near public-use airports.

**6. MEMORANDUM OF AGREEMENT BETWEEN FEDERAL RESOURCE AGENCIES.** The FAA, the U.S. Air Force, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the U.S. Department of Agriculture - Wildlife Services signed a Memorandum of Agreement (MOA) in July 2003 to acknowledge their respective missions in protecting aviation from wildlife hazards. Through the MOA, the agencies established procedures necessary to coordinate their missions to address more effectively existing and future environmental conditions contributing to collisions between wildlife and aircraft (wildlife strikes) throughout the United States. These efforts are intended to minimize wildlife risks to aviation and human safety while protecting the Nation's valuable environmental resources.



DAVID L. BENNETT  
Director, Office of Airport Safety  
and Standards

8/28/2007

AC 150/5200-33B

Table 1. Ranking of 25 species groups as to relative hazard to aircraft (1=most hazardous) based on three criteria (damage, major damage, and effect-on-flight), a composite ranking based on all three rankings, and a relative hazard score. Data were derived from the FAA National Wildlife Strike Database, January 1990–April 2003.<sup>1</sup>

Species group	Ranking by criteria			Composite ranking <sup>2</sup>	Relative hazard score <sup>3</sup>
	Damage <sup>4</sup>	Major damage <sup>5</sup>	Effect on flight <sup>6</sup>		
Deer	1	1	1	1	100
Vultures	2	2	2	2	64
Geese	3	3	6	3	55
Cormorants/pelicans	4	5	3	4	54
Cranes	7	6	4	5	47
Eagles	6	9	7	6	41
Ducks	5	8	10	7	39
Osprey	8	4	8	8	39
Turkey/pheasants	9	7	11	9	33
Hérons	11	14	9	10	27
Hawks (buteos)	10	12	12	11	25
Gulls	12	11	13	12	24
Rock pigeon	13	10	14	13	23
Owls	14	13	20	14	23
H. lark/s. bunting	18	15	15	15	17
Crows/ravens	15	16	16	16	16
Coyote	16	19	5	17	14
Mourning dove	17	17	17	18	14
Shorebirds	19	21	18	19	10
Blackbirds/starling	20	22	19	20	10
American kestrel	21	18	21	21	9
Meadowlarks	22	20	22	22	7
Swallows	24	23	24	23	4
Sparrows	25	24	23	24	4
Nighthawks	23	25	25	25	1

<sup>1</sup> Excerpted from the *Special Report for the FAA, "Ranking the Hazard Level of Wildlife Species to Civil Aviation in the USA: Update #1, July 2, 2003"*. Refer to this report for additional explanations of criteria and method of ranking.

<sup>2</sup> Relative rank of each species group was compared with every other group for the three variables, placing the species group with the greatest hazard rank for  $\geq 2$  of the 3 variables above the next highest ranked group, then proceeding down the list.

<sup>3</sup> Percentage values, from Tables 3 and 4 in Footnote 1 of the *Special Report*, for the three criteria were summed and scaled down from 100, with 100 as the score for the species group with the maximum summed values and the greatest potential hazard to aircraft.

<sup>4</sup> Aircraft incurred at least some damage (destroyed, substantial, minor, or unknown) from strike.

<sup>5</sup> Aircraft incurred damage or structural failure, which adversely affected the structure strength, performance, or flight characteristics, and which would normally require major repair or replacement of the affected component, or the damage sustained makes it inadvisable to restore aircraft to airworthy condition.

<sup>6</sup> Aborted takeoff, engine shutdown, precautionary landing, or other.

**Table of Contents**

**SECTION 1. GENERAL SEPARATION CRITERIA FOR HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS. .... 1**

    1-1. INTRODUCTION..... 1

    1-2. AIRPORTS SERVING PISTON-POWERED AIRCRAFT ..... 1

    1-3. AIRPORTS SERVING TURBINE-POWERED AIRCRAFT..... 1

    1-4. PROTECTION OF APPROACH, DEPARTURE, AND CIRCLING AIRSPACE..... 1

**SECTION 2. LAND-USE PRACTICES ON OR NEAR AIRPORTS THAT POTENTIALLY ATTRACT HAZARDOUS WILDLIFE ..... 3**

    2-1. GENERAL ..... 3

    2-2. WASTE DISPOSAL OPERATIONS..... 3

    2-3. WATER MANAGEMENT FACILITIES ..... 5

    2-4. WETLANDS ..... 8

    2-5. DREDGE SPOIL CONTAINMENT AREAS ..... 9

    2-6. AGRICULTURAL ACTIVITIES..... 9

    2-7. GOLF COURSES, LANDSCAPING AND OTHER LAND-USE CONSIDERATIONS ..... 10

    2-8. SYNERGISTIC EFFECTS OF SURROUNDING LAND USES ..... 11

**SECTION 3. PROCEDURES FOR WILDLIFE HAZARD MANAGEMENT BY OPERATORS OF PUBLIC-USE AIRPORTS ..... 13**

    3.1. INTRODUCTION..... 13

    3.2. COORDINATION WITH USDA WILDLIFE SERVICES OR OTHER QUALIFIED WILDLIFE DAMAGE MANAGEMENT BIOLOGISTS..... 13

    3-3. WILDLIFE HAZARD MANAGEMENT AT AIRPORTS: A MANUAL FOR AIRPORT PERSONNEL ..... 13

    3-4. WILDLIFE HAZARD ASSESSMENTS, TITLE 14, CODE OF FEDERAL REGULATIONS, PART 139..... 13

    3-5. WILDLIFE HAZARD MANAGEMENT PLAN (WHMP) ..... 14

    3-6. LOCAL COORDINATION ..... 14

    3-7. COORDINATION/NOTIFICATION OF AIRMEN OF WILDLIFE HAZARDS ..... 14

**SECTION 4. FAA NOTIFICATION AND REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS ..... 15**

    4-1. FAA REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS ..... 15

    4-2. WASTE MANAGEMENT FACILITIES ..... 15

    4-3. OTHER LAND-USE PRACTICE CHANGES ..... 16

**APPENDIX 1. DEFINITIONS OF TERMS USED IN THIS ADVISORY CIRCULAR ..... 19**



8/28/2007

AC 150/5200-33B

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8/28/2007

AC 150/5200-33B

## **SECTION 1.**

### **GENERAL SEPARATION CRITERIA FOR HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS.**

**1-1. INTRODUCTION.** When considering proposed land uses, airport operators, local planners, and developers must take into account whether the proposed land uses, including new development projects, will increase wildlife hazards. Land-use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase the potential for wildlife strikes.

The FAA recommends the minimum separation criteria outlined below for land-use practices that attract hazardous wildlife to the vicinity of airports. Please note that FAA criteria include land uses that cause movement of hazardous wildlife onto, into, or across the airport's approach or departure airspace or air operations area (AOA). (See the discussion of the synergistic effects of surrounding land uses in Section 2-8 of this AC.)

The basis for the separation criteria contained in this section can be found in existing FAA regulations. The separation distances are based on (1) flight patterns of piston-powered aircraft and turbine-powered aircraft, (2) the altitude at which most strikes happen (78 percent occur under 1,000 feet and 90 percent occur under 3,000 feet above ground level), and (3) National Transportation Safety Board (NTSB) recommendations.

**1-2. AIRPORTS SERVING PISTON-POWERED AIRCRAFT.** Airports that do not sell Jet-A fuel normally serve piston-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 5,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance measured from the nearest aircraft operations areas.

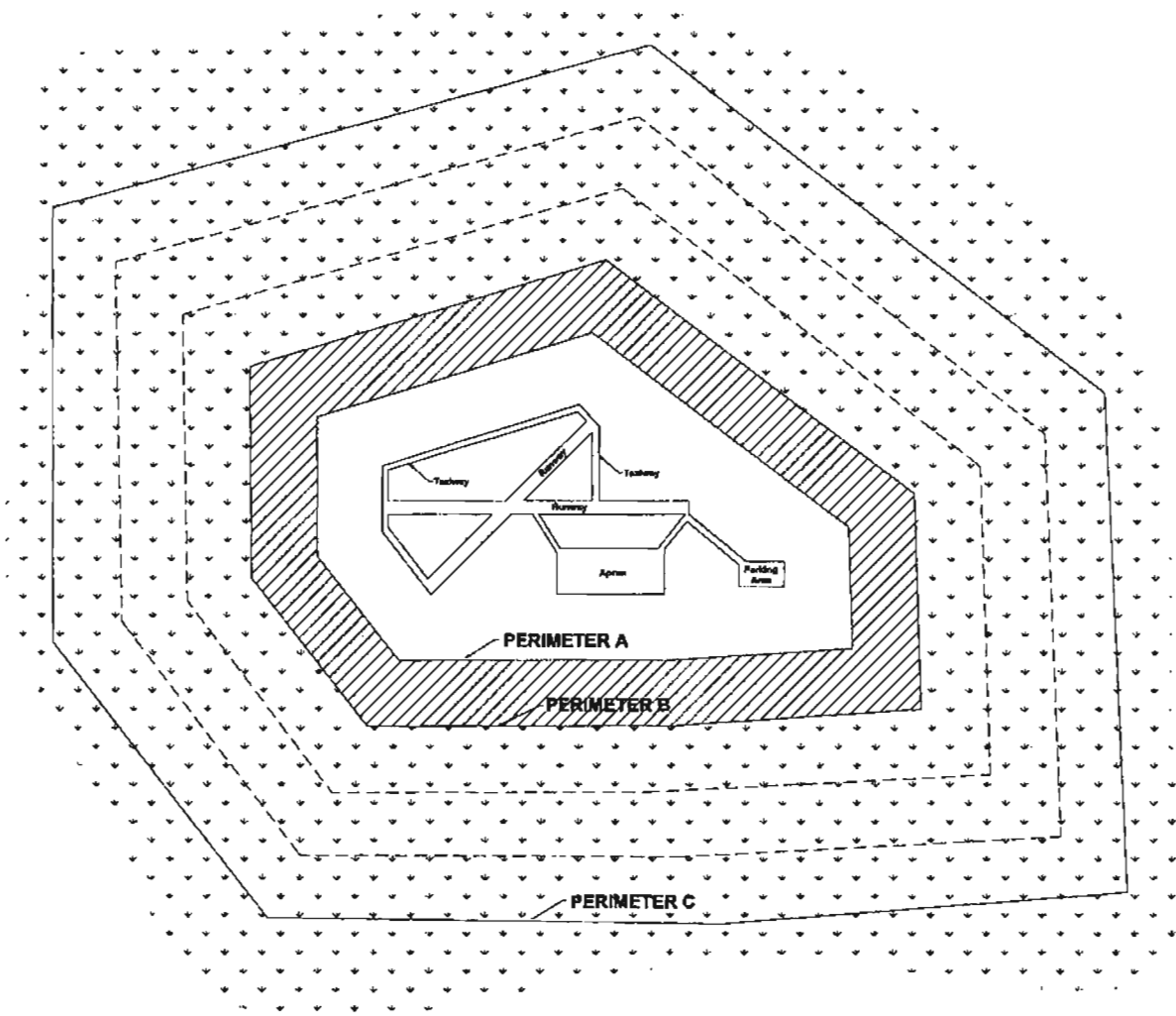
**1-3. AIRPORTS SERVING TURBINE-POWERED AIRCRAFT.** Airports selling Jet-A fuel normally serve turbine-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 10,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance from the nearest aircraft movement areas.

**1-4. PROTECTION OF APPROACH, DEPARTURE, AND CIRCLING AIRSPACE.** For all airports, the FAA recommends a distance of 5 statute miles between the farthest edge of the airport's AOA and the hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace.

8/28/2007

AC 150/5200-33B

Figure 1. Separation distances within which hazardous wildlife attractants should be avoided, eliminated, or mitigated.



**PERIMETER A:** For airports serving piston-powered aircraft, hazardous wildlife attractants must be 5,000 feet from the nearest air operations area.

**PERIMETER B:** For airports serving turbine-powered aircraft, hazardous wildlife attractants must be 10,000 feet from the nearest air operations area.

**PERIMETER C:** 5-mile range to protect approach, departure and circling airspace.

## SECTION 2.

### LAND-USE PRACTICES ON OR NEAR AIRPORTS THAT POTENTIALLY ATTRACT HAZARDOUS WILDLIFE.

**2-1. GENERAL.** The wildlife species and the size of the populations attracted to the airport environment vary considerably, depending on several factors, including land-use practices on or near the airport. This section discusses land-use practices having the potential to attract hazardous wildlife and threaten aviation safety. In addition to the specific considerations outlined below, airport operators should refer to *Wildlife Hazard Management at Airports*, prepared by FAA and U.S. Department of Agriculture (USDA) staff. (This manual is available in English, Spanish, and French. It can be viewed and downloaded free of charge from the FAA's wildlife hazard mitigation web site: <http://wildlife-mitigation.tc.FAA.gov>.) And, *Prevention and Control of Wildlife Damage*, compiled by the University of Nebraska Cooperative Extension Division. (This manual is available online in a periodically updated version at: <http://www.unl.edu/wildlife/solutions/handbook/>.)

**2-2. WASTE DISPOSAL OPERATIONS.** Municipal solid waste landfills (MSWLF) are known to attract large numbers of hazardous wildlife, particularly birds. Because of this, these operations, when located within the separations identified in the siting criteria in Sections 1-2 through 1-4, are considered incompatible with safe airport operations.

**a. Siting for new municipal solid waste landfills subject to AIR 21.** Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181) (AIR 21) prohibits the construction or establishment of a new MSWLF within 6 statute miles of certain public-use airports. Before these prohibitions apply, both the airport and the landfill must meet the very specific conditions described below. These restrictions do not apply to airports or landfills located within the state of Alaska.

The airport must (1) have received a Federal grant(s) under 49 U.S.C. § 47101, et. seq.; (2) be under control of a public agency; (3) serve some scheduled air carrier operations conducted in aircraft with less than 60 seats; and (4) have total annual enplanements consisting of at least 51 percent of scheduled air carrier enplanements conducted in aircraft with less than 60 passenger seats.

The proposed MSWLF must (1) be within 6 miles of the airport, as measured from airport property line to MSWLF property line, and (2) have started construction or establishment on or after April 5, 2001. Public Law 106-181 only limits the construction or establishment of some new MSWLF. It does not limit the expansion, either vertical or horizontal, of existing landfills.

NOTE: Consult the most recent version of AC 150/5200-34, *Construction or Establishment of Landfills Near Public Airports*, for a more detailed discussion of these restrictions.

8/28/2007

AC 150/5200-33B

- b. Siting for new MSWLF not subject to AIR 21.** If an airport and MSWLF do not meet the restrictions of Public Law 106-181, the FAA recommends against locating MSWLF within the separation distances identified in Sections 1-2 through 1-4. The separation distances should be measured from the closest point of the airport's AOA to the closest planned MSWLF cell.
- c. Considerations for existing waste disposal facilities within the limits of separation criteria.** The FAA recommends against airport development projects that would increase the number of aircraft operations or accommodate larger or faster aircraft near MSWLF operations located within the separations identified in Sections 1-2 through 1-4. In addition, in accordance with 40 CFR 258.10, owners or operators of existing MSWLF units that are located within the separations listed in Sections 1-2 through 1-4 must demonstrate that the unit is designed and operated so it does not pose a bird hazard to aircraft. (See Section 4-2(b) of this AC for a discussion of this demonstration requirement.)
- d. Enclosed trash transfer stations.** Enclosed waste-handling facilities that receive garbage behind closed doors; process it via compaction, incineration, or similar manner; and remove all residue by enclosed vehicles generally are compatible with safe airport operations, provided they are not located on airport property or within the Runway Protection Zone (RPZ). These facilities should not handle or store putrescible waste outside or in a partially enclosed structure accessible to hazardous wildlife. Trash transfer facilities that are open on one or more sides; that store uncovered quantities of municipal solid waste outside, even if only for a short time; that use semi-trailers that leak or have trash clinging to the outside; or that do not control odors by ventilation and filtration systems (odor masking is not acceptable) do not meet the FAA's definition of fully enclosed trash transfer stations. The FAA considers these facilities incompatible with safe airport operations if they are located closer than the separation distances specified in Sections 1-2 through 1-4.
- e. Composting operations on or near airport property.** Composting operations that accept only yard waste (e.g., leaves, lawn clippings, or branches) generally do not attract hazardous wildlife. Sewage sludge, woodchips, and similar material are not municipal solid wastes and may be used as compost bulking agents. The compost, however, must never include food or other municipal solid waste. Composting operations should not be located on airport property. Off-airport property composting operations should be located no closer than the greater of the following distances: 1,200 feet from any AOA or the distance called for by airport design requirements (see AC 150/5300-13, *Airport Design*). This spacing should prevent material, personnel, or equipment from penetrating any Object Free Area (OFA), Obstacle Free Zone (OFZ), Threshold Siting Surface (TSS), or Clearway. Airport operators should monitor composting operations located in proximity to the airport to ensure that steam or thermal rise does not adversely affect air traffic. On-airport disposal of compost by-products should not be conducted for the reasons stated in 2-3f.

8/28/2007

AC 150/5200-33B

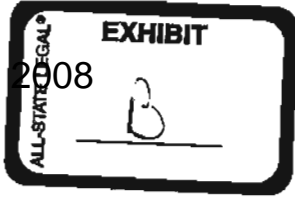
- f. **Underwater waste discharges.** The FAA recommends against the underwater discharge of any food waste (e.g., fish processing offal) within the separations identified in Sections 1-2 through 1-4 because it could attract scavenging hazardous wildlife.
- g. **Recycling centers.** Recycling centers that accept previously sorted non-food items, such as glass, newspaper, cardboard, or aluminum, are, in most cases, not attractive to hazardous wildlife and are acceptable.
- h. **Construction and demolition (C&D) debris facilities.** C&D landfills do not generally attract hazardous wildlife and are acceptable if maintained in an orderly manner, admit no putrescible waste, and are not co-located with other waste disposal operations. However, C&D landfills have similar visual and operational characteristics to putrescible waste disposal sites. When co-located with putrescible waste disposal operations, C&D landfills are more likely to attract hazardous wildlife because of the similarities between these disposal facilities. Therefore, a C&D landfill co-located with another waste disposal operation should be located outside of the separations identified in Sections 1-2 through 1-4.
- i. **Fly ash disposal.** The incinerated residue from resource recovery power/heat-generating facilities that are fired by municipal solid waste, coal, or wood is generally not a wildlife attractant because it no longer contains putrescible matter. Landfills accepting only fly ash are generally not considered to be wildlife attractants and are acceptable as long as they are maintained in an orderly manner, admit no putrescible waste of any kind, and are not co-located with other disposal operations that attract hazardous wildlife.

Since varying degrees of waste consumption are associated with general incineration (not resource recovery power/heat-generating facilities), the FAA considers the ash from general incinerators a regular waste disposal by-product and, therefore, a hazardous wildlife attractant if disposed of within the separation criteria outlined in Sections 1-2 through 1-4.

**2-3. WATER MANAGEMENT FACILITIES.** Drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, ponds built for recreational use, and ponds that result from mining activities often attract large numbers of potentially hazardous wildlife. To prevent wildlife hazards, land-use developers and airport operators may need to develop management plans, in compliance with local and state regulations, to support the operation of storm water management facilities on or near all public-use airports to ensure a safe airport environment.

- a. **Existing storm water management facilities.** On-airport storm water management facilities allow the quick removal of surface water, including discharges related to aircraft deicing, from impervious surfaces, such as pavement and terminal/hangar building roofs. Existing on-airport detention ponds collect storm water, protect water quality, and control runoff. Because they slowly release water

City	Airport	LocID	Hub Type	Role		Year 5		2007-2011 Dev Cost
				Current	Year 5	Enplaned	Bsd Aft	
Dixon	Dixon Municipal-Charles R. Walgreen Field	C73		GA	GA	0	42	\$8,377,895
Effingham	Effingham County Memorial	1H2		GA	GA	0	25	\$2,852,270
Fairfield	Fairfield Municipal	FWC		GA	GA	0	10	\$2,430,790
Flora	Flora Municipal	FOA		GA	GA	0	15	\$3,996,789
Freeport	Albertus	FEP		GA	GA	0	95	\$4,465,914
Galesburg	Galesburg Municipal	GBG		GA	GA	0	48	\$736,000
Grays Lake	Campbell	C81		GA	GA	0	91	\$0
Greenville	Greenville	GRE		GA	GA	0	40	\$4,643,872
Greenwood/Wonder Lake	Galt Field	10C		GA	GA	0	57	\$0
Harrisburg	Harrisburg-Raleigh	HSB		GA	GA	0	33	\$1,390,789
Harvard	Dacy	0C0		GA	GA	0	60	\$0
Havana	Havana Regional	9I0		GA	GA	0	4	\$4,126,400
Jacksonville	Jacksonville Municipal	IJX		GA	GA	0	39	\$1,335,895
Joliet	Joliet Regional	JOT		GA	GA	0	120	\$8,908,000
Kankakee	Greater Kankakee	IKK		GA	GA	0	124	\$7,002,000
Kewanee	Kewanee Municipal	EZI		GA	GA	0	24	\$1,330,000
Lacon	Marshall County	C75		GA	GA	0	33	\$8,750,000
Lawrenceville	Lawrenceville-Vincennes International	LWV		GA	GA	0	82	\$2,556,650
Lincoln	Logan County	AAA		GA	GA	0	37	\$1,258,400
Litchfield	Litchfield Municipal	3LF		GA	GA	0	0	\$1,262,841
Macomb	Macomb Municipal	MQB		GA	GA	0	30	\$4,477,000
Marion	Williamson County Regional	MWA	N	P	P	11,483	61	\$6,602,894
Mattoon/Charleston	Coles County Memorial	MTO		GA	GA	118	60	\$2,452,895
Metropolis	Metropolis Municipal	M30		GA	GA	0	31	\$2,777,700
Moline	Quad City International	MLI	S	P	P	466,248	93	\$21,124,587
Monee	Bult Field	C56		GA	GA	0	44	\$0
Monmouth	Monmouth Municipal	C66		GA	GA	0	5	\$847,705
Monticello	New	+087			GA	0	8	\$5,263,158
Monticello	Piatt County	2K0		GA		0	0	\$0
Morris	Morris Municipal - James R. Washburn Field	C09		GA	GA	0	51	\$1,857,162
Mount Carmel	Mount Carmel Municipal	AJG		GA	GA	0	20	\$1,776,789
Mount Sterling	Mount Sterling Municipal	I63		GA	GA	0	8	\$4,814,895
Mount Vernon	Mount Vernon	MVN		GA	GA	0	37	\$5,588,157
Olney-Noble	Olney-Noble	OLY		GA	GA	0	18	\$2,866,450
Paris	Edgar County	PRG		GA	GA	0	10	\$1,842,895
Pekin	Pekin Municipal	C15		GA	GA	0	36	\$5,286,635
Peoria	Greater Peoria Regional	PIA	N	P	P	236,152	86	\$13,804,619
Peoria	Mount Hawley Auxiliary	3MY		GA	GA	0	86	\$7,470,176
Peru	Illinois Valley Regional-Walter A Duncan Field	VYS		GA	GA	0	44	\$868,744
Pinckneyville	Pinckneyville-Du Quoin	PJY		GA	GA	0	28	\$1,595,895



PETITION TO VACATE A PORTION OF  
CRENSHAW ROAD

To: James Webb  
Williamson County Highway Engineer  
1817 North Court Street  
Marion, Illinois 62959

We, the undersigned, all being legal voters in Williamson County, Illinois, hereby request that a portion of Crenshaw Road be VACATED. The portion of the road subject to this request is specifically described as:

All that part of Crenshaw Road (Township Road #219) as it is located in a part of the Northeast Quarter of Section 3 and in a part of the West Half of Section 2, all in Township 9, Range 2 East of the Third Principal Meridian in Williamson County, Illinois, more particularly described as follows:

Commencing at a point on the north line of said Section 3 where Crenshaw Road crosses from Section 34, Township 8 South, Range 2 East of the Third Principal Meridian in Williamson County, Illinois, on a direction of travel from the northwest to the southeast into the East Half of the Northeast Quarter of Said Section 3, said point being the Point of Beginning for this description; thence continuing in southeasterly, southerly and southeasterly directions to the west line of said Section 2; thence continuing southeasterly to a point near the west line of the Southeast Quarter of the Northwest Quarter of said Section 2; thence continuing easterly across the said quarter quarter to the east line of said quarter quarter at a point north of the center of said Section and the terminating point for this Description

and shown on the map attached as Exhibit "A". We further request that you publish notice of and hold a hearing in accord with Section 5/6-305 of the Illinois Highway Code, and grant this request.

<u>Beverly Clark</u> Print Name	<u>Beverly Clark</u> Signature	<u>12119 Sawalboro main</u> Address
<u>Debra K. Hilliard</u> Print Name	<u>Debra K. Hilliard</u> Signature	<u>609 Halford, Marion</u> Address



Danna Gladwell  
Print Name

Danna Gladwell  
Signature

1504 Miller Dr. Herrin  
Address

Linda Ruchmkerff  
Print Name

Linda Ruchmkerff  
Signature

9629 Old Paintbridge Tr. Marion  
Address

JEAN PARKER  
Print Name

Jean Parker  
Signature

515 S. MARKET - MARION  
Address

Janice McGinty  
Print Name

Janice McGinty  
Signature

W9 PLEASANT CT, Marion  
Address

DONNA TRATT  
Print Name

Donna Pratt  
Signature

3308 W. Lakeview Marion  
Address

JIM SHATTON  
Print Name

Jim Shatto  
Signature

6720 RT 37 MARION IL.  
Address

Craig Shotton  
Print Name

Craig Shotton  
Signature

6753 Jordan Dr, Marion IL.  
Address

PAUL AKES  
Print Name

Paul Akes  
Signature

1110 SCOTTSBORO MARION IL.  
Address

SAM STILLEY  
Print Name

Sam Stilley  
Signature

1712 Dallas Lane Marion, IL  
Address

GAYLA BEAVER  
Print Name

Gayla Beaver  
Signature

300 W Woodall, Marion  
Address

KATH W. COULTER  
Print Name

Kath W. Coulter  
Signature

405 N, 19TH ST. HERRIN  
Address

JERRY BEASLEY  
Print Name

Jerry Beasley  
Signature

703 OLD CRAWL RD, MARION, IL  
Address

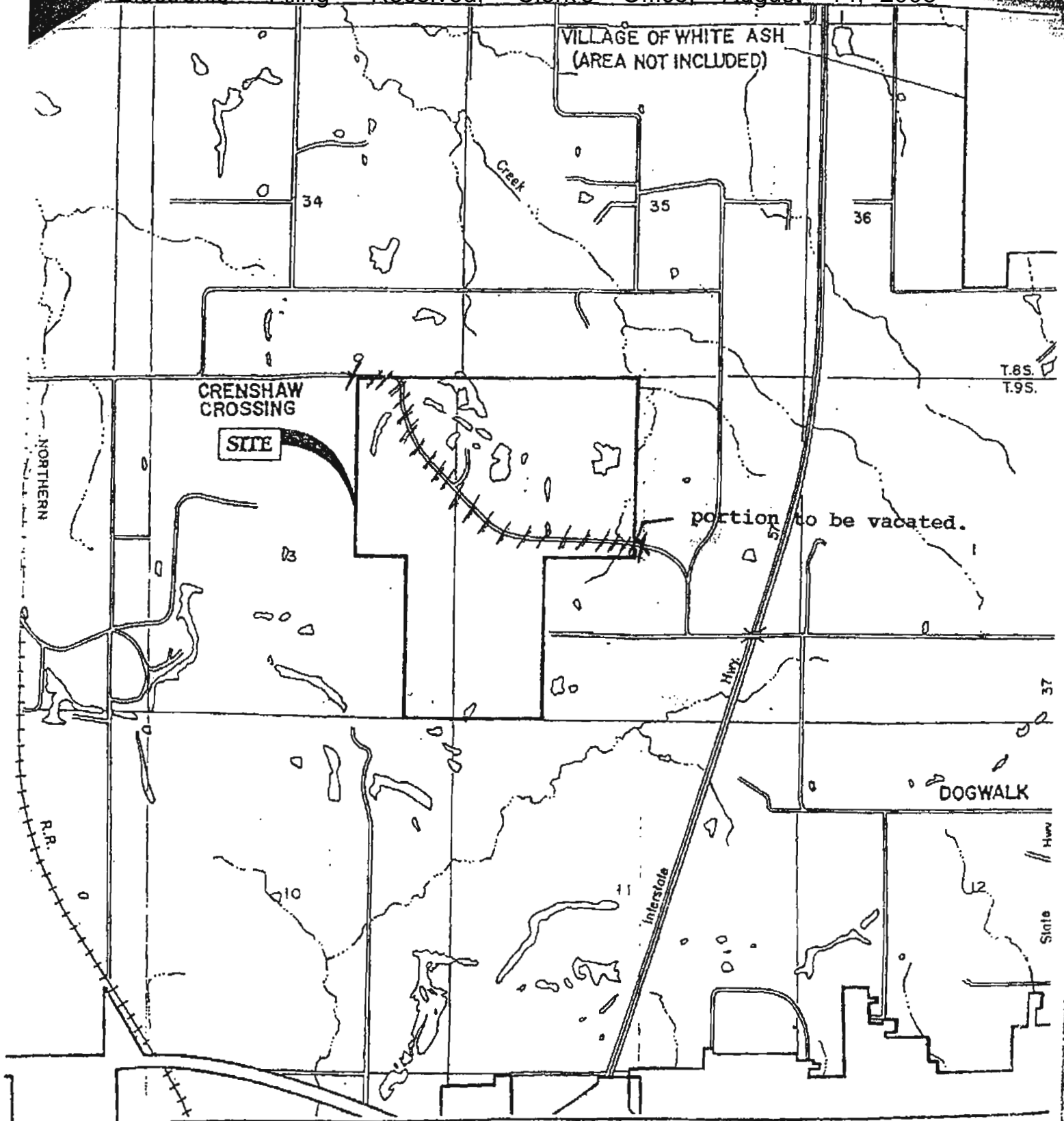
Carol Rossini  
Print Name

Carol Rossini  
Signature

8974 Keni Rd, Johnston City IL 62901  
Address

Received in the Office of the Highway Engineer this 23<sup>rd</sup> day of July, 2003.

J. J. [Signature]



# RAPPS

ENGINEERING & APPLIED SCIENCE

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1601 BROADWAY • MT. VERNON, IL 62564 • (618) 244-2611

WILLIAMSON COUNTY, ILLINOIS  
MARION RIDGE LANDFILL

FEMA FLOOD INSURANCE RATE MAP

CITY OF MARION  
(AREA NOT INCL)

1998-5-136-0  
Mason and Ridge  
LF  
Willis in summer Co

RELEASABLE

CHIASO

NOV 24 2003 11 38 AM '03

CAR FIRE  
Authorities identify dead

MISDEMEANORS: A complete listing  
for Franklin, Jackson, Perry  
and Williamson counties  
2B

RECEIVED  
NOV 21 2003

EPA-DIPC

REVIEWER MD

# Residents unhappy with possible road closure

By John D. Hoffman  
The Southern  
MARIION More than two dozen  
concerned residents, mostly from  
rural Mariion registered their  
displeasure Tuesday at a public  
hearing held at the Williamson  
County Highway Department over a  
petition to close Crenshaw Road.  
They were concerned that closing  
the road would destroy a tree  
inconvenience them and make them  
more inaccessible to emergency  
services but would also create a path  
for the construction of Mariion Ridge,  
a 1,000-acre development that  
would include a 200-unit hotel, a  
resort and a golf course. The  
petition was filed by the  
Williamson County Highway  
Department and the  
Crenshaw Road  
Development Corp., which  
owns the road. The  
road is currently  
open to traffic.

The permit application has been  
through several reviews and  
referrals. In an effort to address  
concerns in the original  
application, Mariion Ridge  
initially a 1,000-acre  
development would be built on  
Crenshaw Road, about 1 1/2 miles  
north of the Mariion Centre mall. The  
road was previously a dirt and  
gravel road, but is now  
improved. The property is about  
358 acres and the proposed  
road would be about 1/2 mile  
long. The road is currently  
open to traffic. The  
road is currently open to  
traffic.

Small businesses (Wayne's  
Small Bagels) that have and have  
customers who come all directions to  
the shop, said Wayne Emery, a  
resident of the area for 23 years. "I  
don't know how many people  
that road is closed, I'm going to have  
some problems." Retired  
Attorney Lawrence Herren,  
who lives on Cedar Grove Road,  
which connects to Crenshaw Road,  
said he can get to and from the  
hospital much quicker by accessing  
Crenshaw Road.  
Fellow farmer Alan Geary said he  
and his wife, Tammy, own 19 acres of  
land on Cedar Grove Road and  
regularly travel Crenshaw Road to get  
to Illinois 13.  
"If we're traveling west, we can get  
to Skyline Drive and Route 19 in  
about 10 minutes," Geary said. "If the  
road is closed, we'd have to take  
LeMaster to Russell Street which  
intersects at Kentucky Fried Chicken.  
And when you take into account all  
the stop lights, it may take us 20 to 30  
minutes to get to Skyline Drive."  
Williamson County Fire Protection  
District Chief Don Swadlow said

SEE ROAD / PAGE 2B

# After the Storm

## Hopkins replaces Lee in West

# Body identified

BY KEN SEEBER  
THE SOUTHERN

**HARRISBURG**—The body of a man found in a burning vehicle Friday near Harrisburg has been identified as that of Steven R. Young, 38, of Haleyville, Ala., investigators said.

Madison County Sheriff Ed Miller said Sunday that a passerby called 911 at 12:48 p.m. Friday when he saw smoke coming from a 1998 Jeep Grand Cherokee with Alabama license plates.

The Cherokee was parked about 60 feet off U.S. 45 on Federal Road at Harrisburg's south side. Wittenborn said Tuesday Young's death does not appear to be suicide. He would not say whether or not drug use was the cause of the fire or Young's death, but he did say Young was not using the Cherokee as a mobile laboratory for manufacturing methamphetamine.

Ken Seeber, The Southern, 618-529-5454

## NOTICES

• Lake of Egypt Water and Sewer District has lifted the boil order for all customers on...

# STORM: Trouble just beginning in Marion

FROM PAGE 1B

order that was entered in federal court speaks for itself. I think right now we would all like to see things calm down.

Things have calmed down for now, but legal action is far from over and, according to one pastor, the issue has left Marion divided.

We have a lot of people in our churches that see both sides of the issue," said the Rev. Victor Long, pastor of Marion's First United Methodist Church. "It has been hard for a lot of pastors to speak up because the way this has been presented is that if you don't support this, then you're against God. And that puts a lot of people in a really difficult situation."

Long, who has written letters to each of the Marion school board members and the superintendent, said he was "very hesitant" to get involved in a matter dealing with another church but felt compelled to speak up.

I am concerned that the insistence of one church to insert their paid evangelist into our schools will, in the end, jeopardize and limit the expression of personal religious convictions by both students and teachers in the future," Long said. "Now the courts are going to be able to say what is and what isn't..."

# ROAD: Residents angry about Crenshaw closure

FROM PAGE 1B

closing the road would be "detrimental" to providing fire protection to property owners of that area.

"It's going to increase our response time in the event of a fire and minutes are important when it comes to fighting fires," Swiatkowski said.

Upon conclusion of testimony heard, Highway Department Supervisor Jim Webb, who conducted the hearing, ruled against closing the road. "The vacation (of the road) is not in the public and economic interest of the citizens of Williamson County," he said.

"Crenshaw is a heavily traveled road at about 1,400 cars per day and would be burdensome to the traveling public to seek alternative routes," Webb said. "I also find that no persons residing or owning land within two miles of this vacation are denied access to their property. And since I choose not to vacate this portion of Crenshaw Road, no damages are incurred."

Webb said a minimum of 12 registered voters in the county

must present a petition before a hearing is held. In this case, 15 registered voters signed the petition asking the county to vacate Crenshaw Road.

The petitioners, Webb said, may appeal his decision to the county board, and if unsatisfied with the board's decision, may appeal to an administrative law judge.

County Board Chairman Wendell Fisher said the board has no official position at this time — that all the board wants to do is "what is best for the biggest majority of people in the county."

Steve Hedinger, an attorney representing Kibler Development and Monticello Investments, which purchased the rights to Marion Ridge Landfill from Marion resident Bill Kibler, said he was not surprised with Webb's ruling.

"At this time, we do not want the road vacated," Hedinger said. "When the time is right, we'll see what the circumstances are."

The NEPA is scheduled to rule on the permit for Marion Ridge Landfill this month.

john.horand@times.com  
618-977-3356 #1567

## DEATHS

### Arthur Richard

**WEST FRANKFORT** — Arthur William Richard, 67, of Granada, Miss., formerly of West Frankfort, died Thursday, Nov. 13, 2003. Services will be at 1 p.m. Saturday in Parker-Reedy Funeral Home in West Frankfort, with the Rev. Arthur Woolley officiating. Burial will be in the East Fork Cemetery. Visitation will be after noon Saturday in the funeral home.

### Emma Tripp

**UNION COUNTY** — Emma Ceell Tripp, 101, of rural Union County, passed away at 9:38 a.m. Monday, Nov. 17, 2003 at Fountains Nursing Center in Marion.

Services will be held at 2 p.m. Saturday in Mt. Hebron Cumberland Presbyterian Church in Goreville, with the Rev. Mike Garrett officiating. Burial will be at Mt. Hebron Cemetery, Goreville. Visitation will be from 1 to 2 p.m. Saturday at the church.

Blue Funeral Home in Goreville is in charge of the arrangements.

### Harold Dodge

**CARBONDALE** — Harold D. Dodge, 78, of Carbondale, died at 1:15 p.m. Tuesday, Nov. 18, 2003, at home.

Arrangements are incomplete at Meredith Funeral Home in Carbondale.

## MISDEMEANOR CHARGES, DISPOSITIONS

McHenry, aggravated assault and disorderly conduct. No indication if bond was set.

Next 7, Brandon Sutton, Pinckneyville, aggravated

**AFFIDAVIT OF SERVICE**

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on August 14, 2008, she caused to be served a copy of the foregoing upon:

Mr. John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601  
therriaj@ipcb.state.il.us  
**(via electronic filing)**

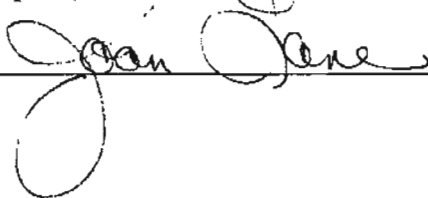
Stephen F. Hedinger  
Hedinger Law Office  
2601 South Fifth Street  
Springfield, IL 62703

Melanie A. Jarvis, Assistant Counsel  
Douglas Scott, Director  
IEPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

Kibler Development Corp.  
c/oStephan Chodera, Registered Agent  
Patrick Mazza, President  
290 S. Main Place #101  
Carol Stream, IL 60188

Marion Ridge Landfill, Inc.  
c/oStephan Chodera, Registered Agent  
Patrick Mazza, President  
290 S. Main Place #101  
Carol Stream, IL 60188

A copy of the same was enclosed in an envelope in the United States mail at Rockford, Illinois, proper postage prepaid, before the hour of 5:00 p.m., addressed as above.



---

PCB No. 08-093  
Michael John Ruffley  
Assistant State's Attorney  
200 West Jefferson  
Marion, IL 62703