

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS,)	
INC. and KENDALL COUNTY LAND)	
AND CATTLE, LLC,)	PCB 09-43
)	
Petitioner)	(Pollution Control Board Facility Siting
)	Appeal)
v.)	
)	
COUNTY BOARD OF KENDALL)	
COUNTY, ILLINOIS,)	
)	
Respondent)	
)	

NOTICE OF FILING

To: All Counsel of Record, See Attached Service List

PLEASE TAKE NOTICE that the undersigned has, on this 2nd day of February, 2009, caused to be filed with the Clerk of the Illinois Pollution Control Board, via electronic filing, the attached *Motion for Extension of Time to File Motions Attacking Sufficiency of Petition* on behalf of the County Board of Kendall County, Illinois, a copy of which is herewith served on you.

Respectfully submitted,

County Board of Kendall County, Illinois

By: /s/James S. Harkness

James F. McCluskey (ARDC No. 3124754)
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PROOF OF SERVICE

Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure, Sabrina Sanders, the undersigned non-attorney certifies that she served a true and correct copy of the foregoing Notice of Filing and Uncontested Motion for Extension of Time to File Motions Attacking Sufficiency of Petition on behalf of Respondent County Board of Kendall County, Illinois, by (1) e-mail transmission and (2) U.S. Mail to all respective addresses as listed on the Service List from Lisle, Illinois 60532 on February 2, 2009.

A handwritten signature in black ink that reads "Sabrina Sanders". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Sabrina Sanders

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AND CATTLE, LLC,)	PCB 09-43
)	
Petitioner)	(Pollution Control Board Facility Siting
)	Appeal)
v.)	
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COUNTY BOARD OF KENDALL)	
COUNTY, ILLINOIS,)	
)	
Respondent)	
)	

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS, INC.))	
and KENDALL COUNTY LAND AND)	
CATTLE, LLC,)	PCB 09-43
)	
Petitioners,)	(Pollution Control Board Facility
)	Siting Appeal)
vs.)	
)	
COUNTY BOARD OF KENDALL COUNTY,)	
ILLINOIS,)	
)	
Respondent.)	

UNCONTESTED MOTION FOR EXTENSION OF TIME TO FILE MOTIONS
ATTACKING SUFFICIENCY OF PETITION

NOW COMES Respondent, County Board of Kendall County, Illinois ("County Board"), by its attorneys MOMKUS McCLUSKEY, LLC, and as its Uncontested Motion for Extension of Time to File Motions Attacking Sufficiency of Petition, pursuant to 35 Ill. Admin Code §101.522, states as follows:

1. Section 101.506 of the Illinois Administrative Code states as follows:

All motions to strike, dismiss, or challenge the sufficiency of any pleading filed with the Board must be filed within 30 days after the service of the challenged document, unless the Board determines that material prejudice would result. 35 Ill. Admin. Code §101.506.

2. Section 101.522 of the Illinois Administrative Code states as follows:

The Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time. 35 Ill. Admin. Code §101.522.

3. On December 24, 2008, Petitioners filed their *Petition for Hearing to Contest Site Location Denial* ("Petition").

4. On January 6, 2009, Respondents' counsel MOMKUS McCLUSKEY, LLC filed its appearance.

5. On January 6, 2009 the County Board of Kendall County convened and terminated its prior counsel. Thereafter, MOMKUS McCLUSKEY, LLC requested prior counsel's file in order to begin preparation of the County Board's defense.

6. MOMKUS McCLUSKEY, LLC did not receive the file until after the close of business on January 19, 2009. The file was provided in an electronic format, which required reproduction, sorting and compiling. Due to the volume, this sorting and compiling was not completed until January 29, 2009.

7. On January 22, 2009, there was held a telephonic status hearing in this case wherein counsel for Respondent stated that it questioned the sufficiency of the Petition. At that time, Petitioners stated that they would be seeking discovery, to which Respondent objected. Petitioners then waived the one hundred twenty (120) day statutory deadline pursuant to 415 ILCS 5/40.1(a), which they confirmed in writing on January 26, 2009. Attached as Exhibit A is this waiver.

8. Also during the January 22, 2009 telephonic hearing, Hearing Officer Halloran granted Respondent an extension of time to file copies of the certified record of the underlying proceedings by February 13, 2009. This record has not yet been certified by the Clerk of Kendall County and, therefore, Respondent's counsel has not had opportunity to view it.

9. Since the January 22, 2009 telephonic hearing, counsel for Respondent attempted to arrange a conference with Petitioners' counsel to discuss the sufficiency of the pleadings. This conference took place on January 29, 2009.

10. During the January 29, 2009 conference among counsel, counsel for Respondent requested that Petitioners voluntarily amend their Petition to specify allegations of fundamental unfairness and bias. Petitioners' counsel questioned the ability to voluntarily amend the Petition without discovery.

11. There is good cause for extending the deadline by which Respondent can file a motion attacking the sufficiency of the Petition, as it raised these concerns at the January 22, 2009 hearing and spoke with Respondent's counsel about them. Therefore, all parties are aware of this issue. Further, without having reviewed the certified record of the underlying proceedings and without having received the prior counsel's file, Respondent's current counsel is disadvantaged in formulating its defenses to the Petition.

12. Finally, the Petitioners will not be prejudiced by this extension, as they waived their statutory decision deadline. (Exhibit A).

13. On January 30, 2009, Respondent's counsel contacted Petitioners' counsel regarding any objection to this motion. In a voicemail message of the same day, Petitioners' counsel stated that he has no objection.

WHEREFORE, Respondent, County Board of Kendall County, Illinois, respectfully requests that it be granted an extension of time until two (2) weeks to file motions attacking the sufficiency of Petitioners' Petition for Hearing to Contest Site Location Denial.

Respectfully submitted,

COUNTY BOARD OF KENDALL COUNTY
ILLINOIS

By: /s/James S. Harkness

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James S. Harkness
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January 26, 2009

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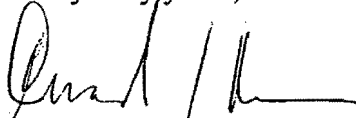
Mr. John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 60601

**Re: Waste Management of Illinois, Inc. and Kendall Land and Cattle, LLC
v. County Board of Kendall County
No. PCB 09-043**

Dear Clerk:

Please be advised that Waste Management of Illinois, Inc. hereby waives the statutory decision deadline in the above appeal to and including August 6, 2009.

Very truly yours,



Donald J. Moran

DJM/vlk

cc:: Bradley P. Halloran
James F. McCluskey
James S. Harkness
Eric C. Weis

JAN 28 2009

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