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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAY 03 1999

STATE OF ILLINOIS
Pollution Control Board

**SIERRA CLUB, MIDWIN TALLGRASS)
PRAIRIE ALLIANCE, AUDUBON)
COUNCIL OF ILLINOIS, and ILLINOIS)
AUDUBON SOCIETY,)**

Petitioners,)

v.)

**WILL COUNTY BOARD and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)**

Respondents.)

PCB 99-136

**(Pollution Control Facility)
Siting Appeal)**

LAND AND LAKES COMPANY,)

Petitioner,)

v.)

**WILL COUNTY BOARD and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)**

Respondents.)

PCB 99-139

**(Pollution Control Facility)
Siting Appeal)**

KATHLEEN KONICKI,)

Petitioner,)

v.)

**WILL COUNTY BOARD and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)**

Respondents.)

PCB 99-140

**(Pollution Control Facility)
Siting Appeal)**

**MOTION TO MAKE MORE DEFINITE
THE PETITION FOR REVIEW OF LAND AND LAKES COMPANY**

NOW COMES the WILL COUNTY BOARD, by its attorneys, and pursuant to Section 101.243 of the Procedural Rules of the Illinois Pollution Control Board ("PCB" or "Board"), 35 Ill. Admin. Code 101.243, moves for an order requiring Land and Lakes Company ("LALC") to make its Petition for Review more definite, requiring LALC to state which of the nine criteria it contends were not satisfied and requiring facts to support its claim "that the siting process used the County was fundamentally unfair."

In support of this Motion to Make More Definite, the Will County Board states:

1. On or about April 12, 1999, LALC filed its Petition for Review ("Petition") with the Board, challenging the siting decision of the Will County Board conditionally approving the siting application of Waste Management of Illinois, Inc. ("WMII") for the proposed Prairie View Recycling and Disposal Facility ("Prairie View RDF"). Service of said Petition was complete on the same date.

2. As the basis of its challenge, LALC's Petition at page 2 states . . . "the siting process used by the County was fundamentally unfair" and the "decision that WMII has satisfied all nine of the criteria set forth in Section 39.2 is against the manifest weight of the evidence."

3. At no time does LALC set forth with any particularity whatsoever which criteria it contends were not satisfied or how the process was fundamentally unfair, beyond what is stated in paragraph 2 above.

4. In its Order dated April 15, 1999, accepting the appeals for hearing, the Board acknowledges that LALC's Petition lacks detail. "Petitioner contends, without additional detail,

hat the decision is against the manifest weight of the evidence, and that the proceedings were fundamentally unfair." Order at page 3.

5. LALC's Petition is insufficient to allow Respondent to prepare its defense; the allegations are so vague and conclusory that they should be stricken or made more definite. City of Des Plaines v. Metropolitan Sanitary District, 60 Ill. App. 3d 995, 377 N.E.2d 114, 17 Ill. Dec. 924 (1978). Illinois is a "fact-pleading" state, which requires the pleader to set out ultimate facts which support his claim. Legal conclusions unsupported by allegations of specific facts are insufficient. While pleading requirements for administrative review may be less exacting than for other causes of action, some facts must be stated so as to apprise a party of the nature of the charges against it and so as to enable adequate preparation of a defense. LaSalle National Trust N.A. v. Village of Mettawa, 249 Ill. App. 3d 500, 557, 616 N.E.2d 1297 (2nd Dist. 1993). Loschen v. Grist Mill Confections, Inc., PCB 97-174 (June 5, 1997 and September 18, 1997). LALC's Petition contains only conclusory allegations and is devoid of any facts whatsoever.

6. Failure to allege any facts to support its conclusory allegation that the siting process was fundamentally unfair or which criteria it contends were not met is insufficient as a matter of law. Respondent is not apprised of the nature of the allegations against it; the allegations are too broad to allow counsel to adequately prepare its defense as required by the Board's own rules at Section 103.122(c), 35 Ill. Admin. Code 103.122(c). Aguilar v. City of Wood Dale, PCB 94-75 (March 17, 1994).

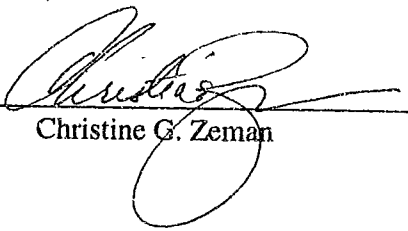
7. Given the limited timeframe of this siting appeal, Respondent requests that any order entered compelling LALC to amend its Petition require LALC to do so within five (5) days of the order, or be subject to dismissal.

WHEREFORE, Respondent, WILL COUNTY BOARD, respectfully requests an order requiring LALC to state facts on which it bases its conclusion that the siting process was fundamentally unfair and which criteria it contends were not satisfied.

Respectfully submitted,

WILL COUNTY BOARD,
Respondent,

By: _____


Christine G. Zeman

Dated: April 30, 1999

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CERTIFICATE OF MAILING

The undersigned hereby certifies that she served a copy of the foregoing **MOTION TO MAKE MORE DEFINITE THE PETITION FOR REVIEW OF LAND AND LAKES COMPANY** upon:

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by depositing said copies in the United States Mail in Springfield, Illinois
on April 30, 1999.

Christine G. Zeman