

ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, L.L.C., )  
 )  
 Petitioner, )  
 )  
 -vs- )  
 )  
 UNITED CITY OF YORKVILLE, )  
 CITY COUNCIL, )  
 )  
 Respondent, )  
 )  
 KENDALL COUNTY, )  
 )  
 Intervenor. )

PCB 07-146

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**STATE OF ILLINOIS**  
**Pollution Control Board**

REPORT OF PROCEEDINGS taken before Tamara Manganiello, Registered Professional Reporter and Notary Public, at 902 Game Farm Road, Yorkville, Illinois, commencing at the 9:00 a.m., on the 23rd day of April, A.D., 2009.

1 A P P E A R A N C E S:

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ILLINOIS POLLUTION CONTROL BOARD

3

100 West Randolph Street

Suite 11-500

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Chicago, Illinois 60601

(312) 814-3461

5

BY: MR. BRADLEY HALLORAN, HEARING OFFICER

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MUELLER ANDERSON, P.C.

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609 Etna Road

Ottawa, Illinois 61350

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(815) 431-1500

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BY: MR. GEORGE MUELLER

On behalf of Fox Moraine, L.L.C.;

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WILDMAN, HARROLD, ALLEN & DIXON, L.L.P.

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Chicago, Illinois 60606-1229

(312) 201-2000

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BY: MR. LEO P. DOMBROWSKI

MR. ANTHONY G. HOPP

14

On behalf of United City of Yorkville;

15

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MOMKUS MCCLUSKEY, L.L.C.

1001 Warrenville Road

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Suite 500

Lisle, Illinois 60532

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(630) 434-0400

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BY: MR. JAMES F. MCCLUSKEY

MR. JAMES S. HARKNESS

20

Appeared on behalf of Kendall County,  
Intervenor.

21

22

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1 HEARING OFFICER HALLORAN: Good  
2 morning, everyone. My name is Bradley  
3 Halloran. I'm a hearing officer with the  
4 Illinois Pollution Control Board. This is  
5 the third day of the hearings in case number  
6 PCB 7-146. Again, it's entitled Fox Moraine,  
7 L.L.C., petitioner, versus United City of  
8 Yorkville, City Council, the respondent, and  
9 then we have Kendall County, the intervenor.

10 Again, this hearing was started on  
11 April 21st. It went yesterday, April 22nd.  
12 And today is April 23rd, approximately  
13 9:00 a.m.

14 And as a refresher, again, I'm a  
15 hearing officer. I will not be making the  
16 ultimate determination in the case. That's  
17 left up to the Board members. They will  
18 review the record and the transcript and any  
19 post-hearing briefing schedules -- any  
20 post-hearing briefs that are filed.

21 In a while, after Yorkville rests  
22 its case in chief, I'll set a post-hearing  
23 briefing schedule which will include a time  
24 for the parties to file their briefs, and

1           there's an amicus brief coming in and also a  
2           time to file your public comment if you so  
3           choose.

4                               With that said, I guess we can get  
5           started, Mr. Dombrowski, Mr. Hopp.

6                               MR. DOMBROWSKI: Thank you,  
7           Mr. Hearing Officer. We would like to call  
8           Mr. Donald Hamman.

9                               HEARING OFFICER HALLORAN: Good  
10          morning, Mr. Hamman.

11                               (Witness sworn.)

12          WHEREUPON:

13                               DONALD J. HAMMAN  
14          called as a witness herein, having been first duly  
15          sworn, was examined and testified as follows:

16                               DIRECT EXAMINATION

17          BY MR. DOMBROWSKI:

18                               Q.        Would you state your full name,  
19          please, sir?

20                               A.        Donald J. Hamman.

21                               Q.        And. Mr. Hamman, you are a resident  
22          of Plano, Illinois, correct?

23                               A.        Unincorporated Plano. We live in a  
24          rural area.

1 Q. And how long have you lived there?

2 A. Ten years.

3 Q. How far is Plano from Yorkville?

4 A. Approximately five miles.

5 Q. Are you a lifelong resident of the  
6 Plano/Yorkville area?

7 A. I'm approximately a 37-year resident.

8 Q. What is your relationship to Fox  
9 Moraine, L.L.C.?

10 A. I'm the manager of Fox Moraine, L.L.C.

11 Q. And you are the sole managing member;  
12 is that correct?

13 A. Yes.

14 Q. And you have an ownership interest in  
15 Fox Moraine?

16 A. Yes.

17 Q. What is that ownership interest?

18 A. We have approximately a 51 percent  
19 interest.

20 Q. That is yours, 51 percent?

21 A. And my family.

22 Q. And who owns the other 49 percent?

23 A. Grote Industries.

24 Q. And Grote is a waste hauler, correct?

1 A. Yes.

2 Q. When was Fox Moraine, L.L.C., formed?

3 A. Approximately two-and-a-half years  
4 ago.

5 Q. And Fox Moraine, L.L.C., was formed to  
6 seek the siting of a landfill, correct?

7 A. That is correct.

8 Q. Who owns the property that is -- that  
9 forms the proposed landfill site?

10 A. Fox Moraine.

11 Q. The L.L.C. owns --

12 A. Yes.

13 Q. -- that property?

14 A. Correct.

15 Q. Did at some point an entity called  
16 Northstar Trust own that property?

17 A. Yes.

18 Q. And you say the ownership has changed  
19 at some point?

20 A. When the dollars exchanged hands, it  
21 changed.

22 Q. What do you mean by that?

23 A. Well, when Grote Industries bought  
24 into the L.L.C.

1 Q. Who are the beneficiaries of the  
2 Northstar Trust?

3 A. Donald J. and Carol S. Hamman.

4 Q. Anyone else?

5 A. Not to my recollection.

6 Q. Mr. Hamman, you signed the host  
7 agreement as the managing member of Fox Moraine,  
8 correct?

9 A. What do you mean by post agreement?

10 Q. Host agreement.

11 A. Oh, the host agreement, yes.

12 Q. And you would be -- is it fair to say  
13 you're the main person behind Fox Moraine, L.L.C.?

14 MR. MUELLER: I think that's been  
15 asked and answered.

16 BY THE WITNESS:

17 A. I have a --

18 HEARING OFFICER HALLORAN: Overruled.

19 BY THE WITNESS:

20 A. I have a management team that I rely  
21 upon. The success of my business -- in all of my  
22 business years, I've never micromanaged any of my  
23 projects. I take the advice of my management team.  
24 And if they recommend it, I go along with it.

1 Q. But as you just stated, though, for  
2 example, you signed the host agreement on behalf of  
3 the L.L.C., correct?

4 A. Yes.

5 Q. You signed the check for the  
6 application fee for the siting process on behalf of  
7 the L.L.C., correct?

8 A. I don't recall if I signed it. The  
9 checking comes out of -- Grote Industries has been  
10 issuing all the checks. They have a very large  
11 accounting department.

12 Q. You signed the cover letter that's  
13 transmitted the application to the City of  
14 Yorkville, correct?

15 A. Yes. Could I see that letter?

16 Q. Sure.

17 MR. MUELLER: Mr. Halloran, if it will  
18 help and speed things up, we'll stipulate  
19 that the buck stops with Mr. Hamman. He's  
20 the person ultimately in charge.

21 HEARING OFFICER HALLORAN:

22 Mr. Dombrowski?

23 MR. DOMBROWSKI: We accept that  
24 stipulation.



1 BY MR. DOMBROWSKI:

2 Q. Would you still like to see the  
3 letter, Mr. Hamman, or the check?

4 A. Yes.

5 (Document marked as  
6 Yorkville Exhibit  
7 No. 2 for  
8 identification,  
9 04/23/09.)

10 BY MR. DOMBROWSKI:

11 Q. Mr. Hamman, let me show you what I  
12 have marked as Yorkville Exhibit No. 2.

13 MR. DOMBROWSKI: And I have one for  
14 Counsel, also one for the Hearing Officer.

15 HEARING OFFICER HALLORAN: Thank you,  
16 sir.

17 (Document marked as  
18 Yorkville Exhibit  
19 No. 3 for  
20 identification,  
21 04/23/09.)

22 BY MR. DOMBROWSKI:

23 Q. Also, let me hand you what I have  
24 marked as Yorkville Exhibit No. 3.

1 MR. DOMBROWSKI: I also have one for  
2 the Hearing Officer and Mr. Mueller.

3 BY MR. DOMBROWSKI:

4 Q. Can you tell me what -- and these are  
5 also taken from the record on appeal in this case.  
6 Exhibit 2 bears the Bates numbers of C00890.  
7 Exhibit 3 is C00891. What is Exhibit No. 2,  
8 Mr. Hamman?

9 A. It is the check written to the United  
10 City of Yorkville for \$100,000.

11 Q. And that was the application fee in  
12 this matter or at least the initial fee?

13 A. Yes.

14 Q. And that is your signature, correct?

15 A. That is correct.

16 Q. And what is Exhibit 3?

17 A. It's the siting application for Fox  
18 Moraine. It was hand delivered to the United City  
19 of Yorkville with my signature on it.

20 Q. That's your signature, correct?

21 A. That's correct.

22 Q. And you signed as the manager member  
23 of Fox Moraine?

24 A. That's correct.

1 Q. And the application was filed on  
2 December 1st, 2006?

3 A. That is correct.

4 Q. When you filed the application on  
5 December 1st, 2006, you knew that the City of  
6 Yorkville would be holding elections in April 2007,  
7 correct?

8 A. Yes.

9 Q. And you knew when you filed the  
10 application that Mayor Art Prochaska would be up for  
11 re-election?

12 A. Yes.

13 Q. And you knew when you filed the  
14 application that four of the eight aldermanic seats  
15 were up for election, correct?

16 A. Yes.

17 Q. And you knew that the hearings on your  
18 landfill application would be held in the spring of  
19 2007, correct?

20 A. Yes.

21 Q. And you knew when you filed the  
22 application that the election campaigns of the  
23 various candidates would be happening at the same  
24 time as the hearings on your landfill application,

1 correct?

2 A. Yes.

3 Q. Now as far as you know, Mr. Hamman,  
4 nothing prevented you from filing the application  
5 any earlier, correct?

6 A. Well, it was recommended that we do it  
7 then because we were waiting for additional  
8 engineering. We wanted to have the safest and the  
9 best landfill study done and that's -- the time went  
10 on and that's why it approached December 1.

11 Q. Now you remember that I took your  
12 deposition in this matter, Mr. Hamman?

13 A. Yes.

14 Q. Let me show you your deposition  
15 transcript. Handing you the deposition transcript  
16 from your deposition, if I could refer you to the  
17 bottom of Page 9, Line 23.

18 A. Whereabouts now?

19 Q. Line 23 at the bottom of Page 9.

20 A. Yes.

21 Q. Do you see that you were asked: So as  
22 you sit here nothing that you know of that would  
23 have prevented Fox Moraine, L.L.C., from filing its  
24 landfill application earlier than December of 2006,

1 correct? You were asked that question?

2 A. It must be on the -- I don't find it  
3 on Page 9. Could you please come and show me that?

4 Q. The page numbers are here at the  
5 bottom. This Page 9 here (indicating).

6 A. Okay.

7 Q. Do you see that question beginning on  
8 Line 23?

9 A. Yes, I do.

10 Q. And you were asked that question on  
11 that day, correct?

12 A. Yes.

13 Q. And then you see Line 8 of Page 10?

14 A. Yes.

15 Q. You first answered I don't know; is  
16 that right?

17 A. Uh-huh.

18 Q. You have to answer out loud, sir.

19 A. Yes.

20 Q. And then I asked you, nothing that you  
21 know of, correct; do you see that?

22 A. Once again, I took the recommendations  
23 from my management team.

24 Q. I'm just asking you, you were asked

1 that question, correct?

2 A. Yes.

3 Q. And you said, not that I know,  
4 correct?

5 A. That's correct.

6 Q. And you took an oath on that day to  
7 tell the truth, correct?

8 A. I did.

9 Q. And nothing would have prevented you  
10 from filing the application later than December 1st,  
11 2006, correct?

12 A. Not that I know of.

13 Q. Yet you still chose to file it on  
14 December 1st, 2006, about four-and-a-half months  
15 before the elections, right?

16 A. Yes.

17 Q. And when you filed the application you  
18 knew that the possible siting of a landfill in the  
19 City of Yorkville could become a big, contentious,  
20 controversial issue during the election campaigns,  
21 correct?

22 A. Some cities welcome a landfill and  
23 others don't, so...

24 Q. But you knew possibly that it --

1 A. Yes.

2 Q. -- could be a controversial issue,  
3 right?

4 A. Correct.

5 Q. Mr. Hamman, you have a subscription to  
6 the Beacon News, do you not?

7 A. Yes.

8 Q. And you've had that subscription for  
9 some time?

10 A. A number of years.

11 Q. You get the paper delivered daily?

12 A. We do.

13 Q. And you had that subscription both in  
14 2006 and 2007, correct?

15 A. Yes.

16 Q. And do you remember an article two  
17 days before the before April 17th elections that  
18 came out on April 15th, which was a Sunday?

19 A. Yes.

20 Q. And various candidates were quoted  
21 regarding their positions on the proposed landfill,  
22 correct?

23 A. That's correct.

24 Q. And you recall reading that article on

1 that day, April the 15th?

2 A. Yes.

3 Q. And upon reading that article you  
4 thought that candidates Joe Plocher, Robyn Sutcliffe  
5 and Wally Werderich were all biased against the  
6 proposed landfill, correct?

7 A. In my reading of it, it indicated to  
8 me that they were biased, yes.

9 Q. You called Charlie Murphy on that day  
10 or the next day to talk about the article?

11 A. It would have been probably the next  
12 day. I didn't want to bother him on a Sunday. But  
13 I did alert him to it because he does not receive  
14 the Kendall County edition of the Aurora Beacon  
15 News.

16 Q. And you two discussed your conclusion  
17 that these candidates were biased, right?

18 A. I indicated that I had some concern  
19 that they were biased, yes, I did.

20 Q. And you also relayed that concern to  
21 Mr. Burnham; is that right?

22 A. Yes.

23 Q. It also would have been the following  
24 day, Monday, April 16th?



1           A.       Sunday or Monday. But most likely it  
2 would have been on Monday because I don't burden him  
3 on weekends with --

4           Q.       Now let me ask you about some of the  
5 other aldermen. You're aware that Alderman Golinski  
6 voted no on the landfill application?

7           A.       Yes.

8           Q.       And are you claiming he was biased?

9           A.       Well, I think he was probably  
10 pressured by the other aldermen when he seen the way  
11 the outcome was to vote the way he did.

12          Q.       My question is are you claiming he  
13 also was biased the way the other three that we've  
14 just talked about were biased?

15                   MR. MUELLER: I think he's answered  
16 the question, Mr. Halloran.

17                   HEARING OFFICER HALLORAN: I'll allow  
18 a little more. Overruled. If you can answer  
19 the question.

20 BY THE WITNESS:

21           A.       No.

22 BY MR. DOMBROWSKI:

23           Q.       And you're aware that Alderman Leslie  
24 voted no on the application?

1 A. Yes.

2 Q. Are you claiming that he was biased?

3 A. Yes.

4 Q. And it was your conclusion that before  
5 the vote on the application was taken on May 24th,  
6 2007, that Alderman Leslie was biased, correct?

7 A. Yes.

8 Q. And you know that Alderman Munns voted  
9 no on the application?

10 A. Yes.

11 Q. Are you also claiming that he was  
12 biased against the proposed landfill?

13 A. Yes, I am.

14 Q. And that was your conclusion prior to  
15 the vote on May 24th, correct?

16 A. That is correct.

17 MR. DOMBROWSKI: Nothing further,  
18 Mr. Hearing Officer.

19 HEARING OFFICER HALLORAN: Thank you,  
20 Mr. Dombrowski. Before I forget, I just want  
21 to introduce the attorneys for the parties  
22 here. I neglected to do that.

23 From my right to left we have  
24 Mr. James Harkness and Mr. James McCluskey

1           for Kendall County, intervenor, and we have  
2           Mr. George Mueller for Fox Moraine and we  
3           have Mr. Leo Dombrowski and Mr. Anthony Hopp  
4           for City of Yorkville. Thank you.

5                     MR. MUELLER: Just a couple,  
6           Mr. Hamman.

7                                     CROSS EXAMINATION

8           BY MR. MUELLER:

9                     Q.       With regard to whether or not there  
10           was enough information to make a good faith motion  
11           to disqualify anyone for bias, did you leave that  
12           decision to your management team?

13                     MR. DOMBROWSKI: I'll object, it calls  
14           for a legal conclusion as to whether there  
15           was enough information.

16                     MR. MUELLER: No. The question is did  
17           he make the decision or leave it to someone  
18           else, not whether there was enough  
19           information.

20                     MR. DOMBROWSKI: I think that's a  
21           different question.

22                     HEARING OFFICER HALLORAN: You may  
23           answer.

24           BY THE WITNESS:

1           A.       I left it entirely up to my management  
2 team. As I emphasized before, I rely on surrounding  
3 myself with good people. That's the reason for my  
4 success. I took their advice and I left it up to  
5 them.

6           Q.       We hope to justify your confidence,  
7 Mr. Hamman.

8           MR. MUELLER: No further questions.

9           HEARING OFFICER HALLORAN: Thank you.  
10 Mr. Dombrowski?

11          MR. DOMBROWSKI: Nothing further.

12          HEARING OFFICER HALLORAN: Thank you,  
13 Mr. Hamman. You may step down. Glad to see  
14 you're back in good health.

15          THE WITNESS: Likewise.

16          HEARING OFFICER HALLORAN: Before we  
17 go off the record and briefly discuss the  
18 exhibits again --

19          MR. HOPP: Mr. Hearing Officer, I'm  
20 sorry to interrupt. I did receive a note  
21 that there's a member of the public who might  
22 like to make a comment.

23          HEARING OFFICER HALLORAN: That was my  
24 next step. Actually, I should have asked if

1 Yorkville has rested your case?

2 MR. DOMBROWSKI: Yes, we do.

3 HEARING OFFICER HALLORAN: Okay. Fox  
4 Moraine, any rebuttal?

5 MR. MUELLER: No rebuttal?

6 HEARING OFFICER HALLORAN: Okay. At  
7 this time, any members of the public that  
8 would like to get up here and give an oral  
9 statement or a public comment, please come  
10 up.

11 (Whereupon, a discussion  
12 was had off the record.)

13 HEARING OFFICER HALLORAN: Yes, sir.  
14 Come on up here. Again, you have a choice,  
15 you can make an oral statement under oath and  
16 you're subject to cross examination or just  
17 get up here and do public comment to say your  
18 peace.

19 MR. LUDWIKOWSKI: I can go under oath.

20 HEARING OFFICER HALLORAN: Okay. And  
21 you're subject to cross.

22 MR. LUDWIKOWSKI: If Mr. Mueller would  
23 cross, I would be glad to allow him to do  
24 that.

1 HEARING OFFICER HALLORAN: And it must  
2 be relevant. Raise your right hand and Tammi  
3 will swear you in.

4 (Witness sworn.)

5 THE WITNESS: Stan R. Ludwikowski,  
6 L-U-D-W-I-K-O-W-S-K-I. I'm a resident of  
7 Yorkville. I've been a resident --

8 HEARING OFFICER HALLORAN: Okay. We  
9 have your name. Just speak to the crowd and  
10 keep your voice up, please.

11 MR. LUDWIKOWSKI: I understand that  
12 this hearing is to determine the fundamental  
13 fairness of the original siting hearings.

14 During that hearing we were  
15 repeatedly told about how the proposed  
16 landfill was the safest and best and the fact  
17 it was reiterated this morning by Mr. Hamman  
18 that this was the safest and best landfill in  
19 the state of Illinois.

20 The representative from Shaw  
21 Engineering made that very clear over and  
22 over. And the council members and the  
23 residents of Yorkville were repeatedly told  
24 about how this was the best design out there.

1           And yet when I had an opportunity to review  
2           the proposal, there was a huge flaw in the  
3           design.

4                       MR. MUELLER:  Mr. Halloran, I'm going  
5           to interpose an objection at this point in  
6           time.  The record is closed as to the  
7           substantive criteria.  I think this witness  
8           intends to offer technical information on  
9           criterion two, and that's not the scope of  
10          this hearing.  That record is closed.

11                      If it was public comment, it'd be  
12          appropriate to give him some leeway.  But to  
13          the extent that he's chosen to be sworn and  
14          now is going to purport to offer substantive  
15          expert testimony on a criterion, that's  
16          completely inappropriate.

17                      HEARING OFFICER HALLORAN:  I'll allow  
18          him a little leeway.  Feel free to object at  
19          a later time, Mr. Mueller.  Again, you may  
20          proceed.

21                      MR. LUDWIKOWSKI:  I don't claim to be  
22          an expert.  This is just public comment.

23                      HEARING OFFICER HALLORAN:  Well, it's  
24          not public.  It's an oral statement and

1           you're under oath, so --

2                         THE WITNESS: That's fine. I think  
3           because of some of the things that were  
4           pointed out during the original hearing, it's  
5           very evident that the council made the  
6           appropriate decision based on what was  
7           presented during those hearings.

8                         I don't believe that there was any  
9           preconceived notion on the members of the  
10          council. I believe that based on the facts  
11          that were presented, that the appropriate  
12          decision was made.

13                        It's kind of like the safety of  
14          the landfill is based on the monitoring wells  
15          and it's kind of like you're trying to  
16          collect the water from the landfill in a  
17          bucket and you're pouring the water in the  
18          top of the bucket and there's no bottom to  
19          the bucket.

20                        The bottom of the bucket is the  
21          monitoring wells around the landfill. And  
22          there were no monitoring wells downstream of  
23          the landfill for 25 years. After --

24                        MR. MUELLER: Again, I'm going to



1 object at this point, Mr. Halloran. This  
2 clearly is now technical criterion two  
3 evidence.

4 HEARING OFFICER HALLORAN: Sir?

5 MR. LUDWIKOWSKI: I just feel that --

6 HEARING OFFICER HALLORAN: The record  
7 is closed now, but I'll allow you a little  
8 more leeway. You stated you're not an expert  
9 and the Board will weigh your testimony  
10 accordingly.

11 MR. LUDWIKOWSKI: I think that what  
12 came out during the hearings was adequate to  
13 make the correct decision. That the fact  
14 that, you know, the representative of Shaw  
15 Engineering indicated that they would change  
16 the design based on monitoring well location  
17 to me says that it puts doubt in your mind as  
18 to the safety of the entire facility.

19 And based on those doubts, that's  
20 what the decision was based on. No  
21 preconceived notion by council members or  
22 that. But the facts brought out during the  
23 hearing show that there was adequate reason  
24 to deny this landfill. I don't have anything

1 else.

2 HEARING OFFICER HALLORAN: Thank you,  
3 sir. Mr. Mueller?

4 MR. MUELLER: I have no questions.

5 HEARING OFFICER HALLORAN: You may  
6 step down. Thank you, sir.

7 Would you like to give public  
8 comment?

9 MR. JOHNSON: Public comment.

10 HEARING OFFICER HALLORAN: Okay. Have  
11 a seat.

12 MR. JOHNSON: Can I stand?

13 HEARING OFFICER HALLORAN: Whatever  
14 you feel more comfortable with. Just state  
15 your name loudly.

16 MR. JOHNSON: Mark A. Johnson from  
17 Yorkville.

18 Good morning, my name is Mark  
19 Johnson. I've lived in Yorkville for  
20 59 years. I'd love to make a couple of  
21 comments today.

22 Incorrect information was provided  
23 by a witness yesterday concerning my signs  
24 being removed from the Beecher Center per the

1 hearing officer. My signs were really not  
2 signs, but instead were storyboards. I  
3 developed these and displayed them at various  
4 functions and community educational sessions.

5 I was disappointed that the team  
6 of people who were showing their biased  
7 information in support of the landfill didn't  
8 provide information from the other side of  
9 the argument.

10 These displays were approximately  
11 two-foot by three-foot storyboards showing  
12 why landfills are not necessarily good  
13 neighbors. I set up the displays at the back  
14 of the room near the huge 3D display of  
15 future landfill site that the landfill  
16 proponents had at each and every meeting.

17 The landfill's lawyer team  
18 protested to the hearing officer and wanted  
19 them removed from the hearing.

20 The hearing officer instructed the  
21 city council that they should not view these  
22 displays and this information, but that the  
23 landfill opposition had the right to display  
24 these storyboards. The storyboards were

1 allowed to stay and were not removed as was  
2 stated.

3 If anyone removes signs at a  
4 hearing, it was the family or friends of the  
5 landfill proponents. I personally filed a  
6 police report when my no-landfill signs were  
7 stolen from the windshield of my truck while  
8 parked at the Beecher Center outside of the  
9 hearing room.

10 I regrettably didn't see who  
11 actually tore them from my vehicle, but I  
12 think it's safe to assume it wasn't members  
13 of the FOGY.

14 Other witnesses stated over the  
15 last two days that the Friends of Greater  
16 Yorkville were disruptive or the opposition  
17 of the landfill were disruptive at the  
18 hearings. They were not.

19 There were times that the landfill  
20 proponents were irritated by Yorkville  
21 citizens in the crowd. I could only assume  
22 that witnesses who stated that these members  
23 were disruptive were -- of FOGY were  
24 disruptive were mistaken and instead relating

1 to ordinary citizens and their rights.

2 The FOGY members were always  
3 respectful of the landfill proponents at all  
4 times during the many long, torturous days of  
5 the hearings.

6 My final comment is about why the  
7 landfill hearings were even necessary to  
8 begin with. First and foremost, the Kendall  
9 County board alone opened the landfill siting  
10 process by changing the county policy  
11 allowing landfills to come to the area.

12 The City of Yorkville didn't  
13 create this mess and neither did Don Hamman.  
14 The citizens must never forget that the whole  
15 landfill debacle must be squarely placed on  
16 the lap of the tipping fee hungry county  
17 board. They alone are responsible for  
18 opening Pandora's box.

19 Don Hamman was working closely  
20 with our Kendall County board for months  
21 trying to get enough votes to allow a  
22 landfill to be sited on his property.

23 When it became obvious that  
24 Mr. Hamman was going to be required to pay

1 higher tipping fees to the county than he was  
2 willing to pay, he took his landfill to the  
3 City of Yorkville where comments were heard  
4 that he owned the city government and would  
5 strike a better deal with them.

6 I don't fault Mr. Hamman for  
7 playing one side against the other, after  
8 all, that is how most political games are  
9 played in the state of Illinois these days as  
10 evidenced by the rampant corruption  
11 throughout the state in the last few years  
12 and more specifically the most -- at most  
13 landfill sitings, especially in Kankakee.

14 The statements made by the  
15 landfill proponents that they have been  
16 treated unfair is like telling David he was  
17 unfair to Goliath. Thank you for giving me  
18 this opportunity to correct witnesses,  
19 comments and set the record straight.

20 HEARING OFFICER HALLORAN: Thank you,  
21 sir.

22 MR. JOHNSON: Thank you.

23 HEARING OFFICER HALLORAN: Yes, sir.

24 Public comment?

1 MR. GILSON: Yes, public comment.  
2 I'll stand up here if you don't mind.

3 HEARING OFFICER HALLORAN: That would  
4 be great. And speak loudly so that Tammi can  
5 hear you and your name and spell it, please.

6 MR. GILSON: Hello. My name is George  
7 Gilson and I am currently a have always been  
8 the president of Friends of Greater  
9 Yorkville. I wanted to point out a few  
10 interesting things for the record in public  
11 comment to be considered before these  
12 proceedings come to a close.

13 First, throughout these  
14 proceedings Fox Moraine's witnesses and their  
15 attorneys continually make an attempt to  
16 attack the efforts of Friends of Greater  
17 Yorkville as a non-for-profit corporation  
18 established and chartered for the betterment  
19 of Yorkville and the surrounding community.

20 Along with their continual  
21 attempts to discredit their efforts put forth  
22 in opposition to this landfill, they also try  
23 to paint a negative portrait of the  
24 individual members of the corporation without

1 any clue of who the members actually are.

2 Friends of Greater Yorkville, or  
3 commonly referred to as the opposition group  
4 by Fox Moraine, only consists of five members  
5 of which most if not all of the these  
6 accusations in this appeal do not apply to.

7 Not only do Fox Moraine and their  
8 attorneys not only -- not only do Fox Moraine  
9 and their attorneys not know who FOGY is, but  
10 they continually take what was a community  
11 opposition consisting of many people of the  
12 community stepping forward and opposing this  
13 landfill application and everything that led  
14 up to it and are trying to convince the PCB  
15 to believe that anything said in opposition  
16 to the landfill before and during the  
17 application was all coming from the five  
18 individuals that make up the Friends of  
19 Greater Yorkville. This cannot be farther  
20 from the truth.

21 FOGY's concern was that the  
22 annexation process was being undertaken in a  
23 fundamentally unfair manner to the citizens  
24 of Yorkville and would have ultimately



1           resulted in a fate accompli approval of the  
2           landfill prior to the siting hearing.

3                         It is ironic that Fox Moraine  
4           alleges ex parte communications by the  
5           citizens of Yorkville while admitting that  
6           its representatives did the same. FOGY as  
7           well as other citizens of Yorkville therefore  
8           elected to exercise their First Amendment and  
9           statutory rights to vigorous participation in  
10          the annexation process and the siting  
11          hearing.

12                        There is nothing in the state  
13          statute, the PCB rules or the case law that  
14          could be interpreted to interfere with a  
15          citizen's rights during the annexation  
16          process and the PCB certainly would not want  
17          to attempt to create a rule or finding which  
18          would abridge or stifle the rights of  
19          citizens to participate in public hearings  
20          and to petition their elected officials.  
21          These are core and fundamental legal rights.

22                        I also find it interesting that  
23          Fox Moraine's attorneys want the PCB to  
24          believe that the 39.2 process supersedes the

1 Constitution of the United States and our  
2 First Amendment rights to freedom of speech.

3 There are no threats of -- there  
4 were no threats of physical harm made by  
5 anyone in FOGY and everything said in  
6 opposition to this landfill application as  
7 our right under the Constitution of the  
8 United States freedom of speech.

9 I find it interesting that stones  
10 are being cast on what they inaccurately  
11 believe as the members of FOGY, but yet the  
12 real and current long-standing members of  
13 FOGY have never been deposed, have never  
14 been subpoenaed and/or put on the stand to  
15 testify to all the inaccuracies testified by  
16 the applicant and their witnesses.

17 Fox Moraine only wants the  
18 audience and the PCB to hear one side of the  
19 story and that is the skewed, after-the-fact  
20 version of why they are not granted approval  
21 of their application.

22 This version is a lot -- this  
23 version is a lot like sour grapes and cannot  
24 be trusted.

1 Fox Moraine does not like that the  
2 community opposed the landfill application  
3 and stepped forward to publically express  
4 their opposition in every way and at every  
5 opportunity.

6 Fox Moraine does not like that the  
7 community and members of FOGY petitioned  
8 their government as to their stance and  
9 beliefs about the annexation process and this  
10 landfill, but frankly that's too bad. There  
11 is nothing illegal about freedom of speech.

12 FOGY did not under any  
13 circumstance talk to the city council during  
14 the application about anything substantive in  
15 the application. The current city council  
16 made their decision to deny this landfill  
17 based on the 39.2 process and the lack of Fox  
18 Moraine to meet the criteria set forth in  
19 that process.

20 The PCB needs to only be concerned  
21 with one thing, and that is it. Fox Moraine  
22 had ample time, witnesses and opportunity to  
23 prove that they can meet all the criteria set  
24 forth in this siting process and



1 MR. DUSELL: I'm a resident of  
2 Yorkville, Illinois. I realize this is out  
3 of the scope of the Hearing Officer's  
4 control, but my opinion is that this  
5 application process is severely flawed.

6 For example, when you're pitting  
7 the elected officials against the  
8 electorates, in this case where they cannot  
9 speak to their constituents, I on a number of  
10 occasions had talked to my Alderman Golinski  
11 as well as his predecessor Alderman Wolfer  
12 and on several occasions was told that they  
13 could not answer my questions or could not  
14 discuss this issue. That's severely flawed.

15 That's why I elected them. I  
16 should have a representative in the City  
17 Council. Going on from that, I've been going  
18 through some of the testimony I've heard over  
19 the hearings since I've been here since the  
20 beginning. I find it ironic and hypocritical  
21 that Mr. Mueller would contest the opposition  
22 parties coming from out of town here to voice  
23 their opinion against this landfill siting.

24 I happened to be at the Grand

1 Reserve School one night for a hearing and  
2 after the hearing I went to the Bristol Tap  
3 and lo and behold a fellow by the name Gary  
4 Karafeat (phonetic), who was supposed to  
5 present himself at the hearing as an unbiased  
6 party and wanted to give presentation  
7 pro-landfill, happened to walk into the  
8 Bristol Tap and join Mr. Mueller at the table  
9 there.

10 And I'm thinking this is unbiased?  
11 They're slugging beers down together. Was  
12 there no prior affiliation with these people  
13 as well as several other folks who owned the  
14 Beacon News, a proponent of the landfill  
15 issue.

16 And going back to Gary Golinski,  
17 my concern was basically the backroom deals  
18 were appearing to happen at city hall with  
19 Mayor Prochaska and the management team from  
20 Fox Moraine. And my concern I was trying to  
21 get across to Gary Golinski was that the  
22 questionable proceedings going on with the  
23 sanitation process could possibly cause the  
24 city some severe legal ramifications.

1                   There again, I was told he could  
2                   not comment and discussion couldn't happen.  
3                   I find that very, very flawed and I would  
4                   hope that we can get something resolved with  
5                   this application process in the future so  
6                   that people who elect people here have  
7                   representation at city council. Thank you  
8                   for allowing me to comment.

9                   HEARING OFFICER HALLORAN: Thank you,  
10                  sir. Anyone else? Okay. For the record,  
11                  there's about 20 members of the public it  
12                  looks like sitting in the audience and I  
13                  appreciate their comments and statements.

14                  Mr. Dombrowski, I do have Exhibits  
15                  2 and 3 that you just handed me. What do we  
16                  want to do with these?

17                  MR. DOMBROWSKI: We'd like to move  
18                  those into evidence, Mr. Hearing Officer.

19                  HEARING OFFICER HALLORAN:  
20                  Mr. Mueller?

21                  MR. MUELLER: I don't have any  
22                  objection.

23                  HEARING OFFICER HALLORAN: Okay.  
24                  Yorkville's Exhibits 2 and 3 admitted. Okay.

1 It's been represented that all parties have  
2 rested their case.

3 MR. MUELLER: Mr. Halloran, can I make  
4 a --

5 HEARING OFFICER HALLORAN: Yes,  
6 Mr. Mueller?

7 MR. MUELLER: Can I file a motion  
8 before we go any further? It deals with the  
9 hearing officer's credibility finding and the  
10 testimony of Valerie Burd.

11 HEARING OFFICER HALLORAN:  
12 Mr. Dombrowski, Mr. Hopp, what I will do, I  
13 will take this motion under advisement. And,  
14 obviously, you can respond in writing because  
15 you can't look through all of this stuff  
16 right now.

17 MR. HOPP: Correct.

18 HEARING OFFICER HALLORAN: But I'm  
19 just noticing Paragrah 2, Fox Moraine alleges  
20 the hearing officer in this type of hearing  
21 is required to make a finding regarding  
22 credibility of witnesses.

23 I respectfully disagree. It's not  
24 in the rules. However, it is usually custom.



1 But I was going to reserve, if at all, my  
2 finding in my hearing officer report.

3 But how much time do you think you  
4 will need to respond to this?

5 MR. DOMBROWSKI: Well, Mr. Mueller,  
6 are these citations to -- these are citations  
7 to hearing transcripts?

8 MR. MUELLER: All of the citations,  
9 with the exception of March 26th, are  
10 citations to city council meetings that the  
11 transcripts of which have been admitted into  
12 evidence at this hearing. And March 26th is  
13 already part of the record as it was filed by  
14 the City of Yorkville.

15 MR. DOMBROWSKI: We'd like two weeks  
16 to respond, Mr. Hearing Officer.

17 HEARING OFFICER HALLORAN: Okay. So  
18 May 7th. Mr. Mueller, which exhibit did you  
19 say this was?

20 MR. MUELLER: This is a motion, so  
21 it's not an exhibit.

22 HEARING OFFICER HALLORAN: I'm sorry.  
23 Well, you know what, I'll take it as Hearing  
24 Officer Exhibit 2.

1 MR. MUELLER: Which reminds me,  
2 Mr. Halloran, what was Hearing Officer  
3 Exhibit 1?

4 HEARING OFFICER HALLORAN: We'll get  
5 to that in a minute.

6 MR. MUELLER: Sorry.

7 HEARING OFFICER HALLORAN: No. That's  
8 fine. And Kendall County is more than -- you  
9 know, you can respond if he wants to.

10 Mr. Mueller, do you care to make a  
11 closing argument or are you going to reserve  
12 it for post-hearing briefs?

13 MR. MUELLER: We'll waive closing in  
14 light of the fact that the parties will file  
15 written briefs.

16 HEARING OFFICER HALLORAN: Okay.  
17 Terrific. Mr. Dombrowski?

18 MR. DOMBROWSKI: The same.

19 HEARING OFFICER HALLORAN: The same.  
20 Kendall County?

21 MR. HARKNESS: Same here.

22 HEARING OFFICER HALLORAN: With that  
23 said, I think we're going to go through some  
24 housekeeping matters right now regarding the

1 exhibits.

2 And forgive me, Counsels, I'm  
3 going to go through what I have first. It's  
4 a little out of order. I have as Hearing  
5 Officer Exhibit No. 1, that's Fox Moraine's  
6 offer of proof regarding deliberative  
7 process.

8 I have Kendall County's Exhibit  
9 No. 1, which is a stipulation between Fox  
10 Moraine and County of Kendall.

11 I also have Yorkville's Exhibit 1,  
12 probably be defined as a copy of a palm card  
13 regarding what the city council members can  
14 or cannot do on a siting application process.

15 And, again, I have Yorkville's  
16 Exhibit Nos. 2 and 3. No. 2 is the check for  
17 \$100,000 and Exhibit No. 3 is the siting  
18 application for Fox Moraine landfill. It's a  
19 letter to the city clerk dated December 1st,  
20 2006.

21 I have as Fox Moraine's Exhibit  
22 No. 14, a newspaper article dated April 5th,  
23 2007, that was taken as an offer of proof to  
24 assist the witness testimony.

1 I have Fox Moraine's Exhibit  
2 Number 15, it's a campaign disclosure of  
3 Mayor Prochaska.

4 I also have the invoice dated  
5 June 15th, 2007, that's Fox Moraine's Exhibit  
6 No. 16.

7 I have as Exhibit 17, which is Fox  
8 Moraine's exhibit, it's the minutes from  
9 May 8th, 2007.

10 I have Fox Moraine's Exhibit  
11 No. 20, it's a web page from I believe Ms.  
12 Sutcliffe. It's Bates stamped 58 at the  
13 bottom. I don't see a date on it.

14 I have Fox Moraine's Exhibit 21,  
15 another web page from Robyn Sutcliffe dated  
16 January 3rd, 2007.

17 Fox Moraine's Exhibit No. 22, I  
18 believe it's another web page from  
19 Ms. Sutcliffe dated January 9th, 2007.

20 Fox Moraine's Exhibit 23, it's a  
21 document regarding a public hearing from  
22 January 23rd, 2007.

23 Fox Moraine's Exhibit 24, taken as  
24 an offer of proof, it's a letter from Chuck

1 Sutcliffe, a copy of the letter printed in  
2 the Kendall County Record.

3 Fox Moraine's Exhibit 25, it's a  
4 3rd Ward Advisor, I guess a letter put out by  
5 Robyn Sutcliffe.

6 Exhibit Number 26, Fox Moraine,  
7 it's a newspaper article dated November 2nd,  
8 2006 taken as an offer of proof to assist.

9 Fox Moraine's Exhibit 27, another  
10 newspaper article dated I believe -- it's  
11 hand printed on here November 7th. It's  
12 entitled Landfill Deal May Be Key to  
13 Elections. That was taken as an offer of  
14 proof.

15 MR. HOPP: 11/7/06?

16 HEARING OFFICER HALLORAN: 11/7/06.

17 It didn't have the '06 there. Thank you.

18 Fox Moraine's Exhibit 28, it's a  
19 palm card from Wally Werderich regarding his  
20 election, there's a new voice for the Ward 1.

21 I have Fox Moraine's Exhibit  
22 Number 29 taken as an offer of proof. It's  
23 the first page of a pleading entitled  
24 petitioner's response to motion for attorney

1 fees in PCB case number 8-95.

2 Fox Moraine's Exhibit Number 30  
3 taken as an offer of proof. It's a pleading  
4 entitled verification in support of  
5 Yorkville's response to motion for attorney  
6 fees, it's file stamped September 22nd in  
7 case PCB 8-95.

8 Fox Moraine's Exhibit 31, it's a  
9 document ordinance number 2006-117.

10 A resolution document, Fox  
11 Moraine's Exhibit No. 33, denial of sitting  
12 application.

13 Fox Moraine's Exhibit 34, another  
14 document, it's a resolution, it's entitled  
15 approval with conditions of the siting  
16 application, it's Bates stamped 80 at the  
17 bottom.

18 Fox Moraine's Exhibit 35, it's  
19 another resolution document, denial of siting  
20 application, Bates stamped 82 at the bottom.

21 Another resolution document,  
22 approval/denial, it's Fox Moraine's  
23 Exhibit 36, Bates stamped 86 at the bottom.

24 I have Fox Moraine's Exhibit

1 No. 1, it's the plan commission meeting,  
2 United City of Yorkville. It's a report of  
3 proceedings had at a meeting on  
4 September 25th, 2006.

5 Fox Moraine's Exhibit No. 2,  
6 again, it's the report of proceedings at the  
7 meeting on September 26th, 2006.

8 Fox Moraine's Exhibit No. 3,  
9 regular city council meeting, United City of  
10 Yorkville, Illinois, proceedings regarding  
11 October 10th, 2006.

12 Fox Moraine's Exhibit No. 4,  
13 again, report of proceedings held on  
14 October 24th, 2006.

15 Another document, Fox Moraine  
16 Exhibit No. 5, proceedings of October 30th,  
17 2006.

18 Fox Moraine's Exhibit No. 6,  
19 report of the proceedings for the meeting  
20 held November 13th, 2006.

21 Fox Moraine's Exhibit No. 7,  
22 again, report of the proceedings held on  
23 November 14th, 2006, city council meeting.

24 Fox Moraine's Exhibit No. 8,

1 report of the proceedings, city council  
2 meeting dated November 30th, 2006.

3 Fox Moraine's Exhibit No. 9,  
4 report of the proceedings from the council  
5 meeting dated January 23rd, 2007.

6 And it was discussed during the  
7 hearing it was a complete court file of  
8 Kendall County, the lawsuit, number 070V43, I  
9 believe, Yorkville versus Hamman. What I  
10 allowed is the -- I take administrative  
11 notice, official notice of the court ruling  
12 or opinions, but I will not accept the  
13 pleadings. I do not have that in my hand.  
14 And Mr. Mueller can address that when I get  
15 finished here.

16 I have Fox Moraine's Exhibit  
17 No. 11, which I don't have, but it's the  
18 Yorkville versus Fox Moraine case, Circuit  
19 Court, 08 L 68, I believe. Again, I took  
20 official notice of the court rulings  
21 opinions, but I will not accept the pleadings  
22 therein.

23 And Fox Moraine's Exhibit No. 12,  
24 Pollution Control Board orders, rulings in



1 8-95 and 8-96. I took administrative notice  
2 of the orders and rulings by the Board  
3 itself, but I will not accept the pleadings.  
4 Again, I do not have 10, 11 and 12.

5 And I also don't have Fox  
6 Moraine's Exhibit No. 13. It's -- I have  
7 written down here a newspaper article. I  
8 think law -- I can't read my own writing.

9 MR. MUELLER: Mr. Halloran, I've got  
10 all of those. I'm going to offer them in due  
11 course. That's the Beacon article that had  
12 all of the candidates' expressions and views.

13 HEARING OFFICER HALLORAN: Okay. Due  
14 course would be now, I guess.

15 MR. MUELLER: Now. I'm ready whenever  
16 you want me to go.

17 HEARING OFFICER HALLORAN: To offer  
18 Exhibit No. 13?

19 MR. MUELLER: Well, yeah.

20 HEARING OFFICER HALLORAN: Okay.

21 Sure.

22 MR. MUELLER: I've got 11 and 12 here,  
23 also. Well, I've got 10 and 11. We talked  
24 about those. And I have them in their

1           entirety. Do you want me to pull those apart  
2           to make them only the orders or are you  
3           ruling that you'll receive the entire  
4           document but only consider the orders?

5                   HEARING OFFICER HALLORAN: It would be  
6           cleaner, I think, just to get the orders and  
7           the ruling.

8                   MR. MUELLER: All right. I'll pull  
9           them apart then when we're done.

10                   HEARING OFFICER HALLORAN: Okay.

11                   MR. HOPP: On behalf of Yorkville,  
12           your Honor, we would appreciate if nothing  
13           that's not part of the actual exhibit is put  
14           into the record. You said it would be  
15           cleaner. If your ruling is just the orders,  
16           then our position is we want just the orders.

17                   HEARING OFFICER HALLORAN: I think  
18           that's what he's going to do.

19                   MR. MUELLER: Yeah, I said I'll do  
20           that.

21                   HEARING OFFICER HALLORAN: He's going  
22           to pull the other stuff out.

23                   MR. MUELLER: No. 13 is the April 15th  
24           Beacon News article entitled The Landfill

1 Yorkville Candidates Weigh In. And I don't  
2 think I've offered it previously.

3 HEARING OFFICER HALLORAN: Mr. Hopp,  
4 Mr. Dombrowski?

5 MR. HOPP: It has not been previously  
6 offered in and we do object on the basis of  
7 hearsay.

8 HEARING OFFICER HALLORAN: Okay. As  
9 with the others, I will take it as an offer  
10 of proof merely to assist the Board in the  
11 witness' testimony.

12 As far as the Fox Moraine's  
13 exhibit No. 12, the PCB orders, rulings in  
14 08-95, 8-96, Mr. Dombrowski, Mr. Hopp?

15 MR. HOPP: I have some difficulty with  
16 that, Mr. Hearing Officer. I understand what  
17 Mr. Mueller is getting at, but I can't not  
18 object to an exhibit I haven't actually seen.

19 He's asking to mark this sort of  
20 exhibit virtually in cyberspace and I've  
21 never seen that happen before and I would  
22 never allow it to happen without a strenuous  
23 objection.

24 We don't know what the content of

1 the exhibit is other than just the orders in  
2 those two cases or whatever he's talking  
3 about in those two cases. I don't know what  
4 all of this entails.

5 MR. MUELLER: Mr. Halloran, if I can  
6 explain, I originally moved that the Board  
7 take judicial notice of case numbers PCB  
8 08-95 and 08-96. I did not have any hard  
9 copies of any of that because that's part of  
10 the Board's own record and so, therefore, I  
11 think they could just take judicial notice of  
12 it.

13 You indicated they would take  
14 administrative notice of just the orders in  
15 those cases and then somehow the discussion  
16 got on to calling that as Exhibit 12. I  
17 don't know how we ever got to that point  
18 because I never offered any paper on it.

19 HEARING OFFICER HALLORAN: Okay. I'm  
20 just trying to make a clearer record for  
21 Board where they can cite to say Exhibit  
22 No. 12 regarding the PCB 95, 96. I mean, if  
23 that's the case, it's kind of six of one,  
24 half dozen of the other as far as taking

1 official notice of our own cases.

2 MR. HOPP: Well, and I agree that they  
3 can certainly take judicial notice of their  
4 own cases, but I still have the same  
5 heartburn about an exhibit that I don't know  
6 the extent of. And, therefore, if the  
7 Hearing Officer would like to admit it as  
8 Exhibit 12, I'd like it to be shown over  
9 Yorkville's objection.

10 HEARING OFFICER HALLORAN: Would you  
11 like me to just strike Exhibit No. 12 and  
12 just take judicial notice --

13 MR. HOPP: I would prefer it that way.

14 HEARING OFFICER HALLORAN: -- of the  
15 PCB 95, 96?

16 MR. MUELLER: I have no objection to  
17 that way of receiving it.

18 HEARING OFFICER HALLORAN: Okay. So  
19 Fox Moraine has no Exhibit No. 12. I'm just  
20 going to refer to it as taking official  
21 notice of 8-95 and 8-96 of the Pollution  
22 Control Board's orders and rulings.

23 Have I missed anything?

24 MR. MUELLER: We've got other

1 exhibits.

2 HEARING OFFICER HALLORAN: Okay.

3 MR. DOMBROWSKI: We missed No. 32, I  
4 believe.

5 MR. MUELLER: I'm actually at 18 and  
6 19. I think we missed those, also. I can  
7 tender them right now.

8 HEARING OFFICER HALLORAN: Okay.

9 MR. MUELLER: Exhibit 18 was the  
10 transcript of the city council deliberations  
11 of May 23rd 2007. That's previously been  
12 made part of the record as actually part of  
13 the decision in this case, I believe. And it  
14 was marked as an exhibit solely for  
15 convenience and referencing it.

16 HEARING OFFICER HALLORAN: Okay. And  
17 I have down here in my cryptic notes admitted  
18 without objection.

19 MR. HOPP: That's correct.

20 MR. MUELLER: And I've got that, your  
21 Honor.

22 HEARING OFFICER HALLORAN: Okay.

23 Thank you.

24 MR. MUELLER: And Exhibit No. 19 is

1 the transcript of the city council  
2 deliberations on May 24th, 2007. And the  
3 story on that one is exactly the same as 18.

4 MR. HOPP: Same. No objection.

5 HEARING OFFICER HALLORAN: Okay.  
6 Admitted. Anything else, Mr. Mueller?

7 MR. MUELLER: I think we've got -- I'm  
8 looking to see if there's a couple more. I  
9 know that 32 is still out there.

10 MR. DOMBROWSKI: 32, I think that was  
11 a --

12 MR. MUELLER: The police report.

13 MR. DOMBROWSKI: -- copy of the siting  
14 ordinance.

15 MR. MUELLER: No. That was 31,  
16 Mr. Dombrowski. Thirty-two is the police  
17 report that Alderman Besco used to refresh  
18 his recollection about the call that was made  
19 to his home. And we would offer that.

20 MR. HOPP: And we would object,  
21 Mr. Hearing Officer, it's not real evidence.  
22 There's no reason to admit it. His  
23 recollection actually was refreshed and he  
24 testified about the events.

1 HEARING OFFICER HALLORAN:

2 Mr. Mueller?

3 MR. MUELLER: Mr. Dombrowski's  
4 statement is correct, so I'm offering it just  
5 so that the Board has it in case they want to  
6 see what the witness used to refresh his  
7 recollection.

8 HEARING OFFICER HALLORAN: As with the  
9 newspaper articles, I will accept it on that  
10 basis, offer of proof to assist the Board.  
11 And that was Exhibit --

12 MR. MUELLER: Thirty-two.

13 HEARING OFFICER HALLORAN: All right.  
14 Thank you.

15 MR. MUELLER: I think that's all of  
16 them, Mr. Halloran.

17 HEARING OFFICER HALLORAN: Thank you.  
18 Anything else before we go off the record to  
19 talk about briefing schedules?

20 MS. VINEYARD: I'm sorry, I came late.  
21 Is it possible I could make a statement? It  
22 would be short.

23 HEARING OFFICER HALLORAN: Certainly.  
24 Take your time. Come on up. You made it in



1 the nick of time.

2 MS. VINEYARD: I called and they said  
3 it was going on until noon.

4 HEARING OFFICER HALLORAN: Do you want  
5 to make an oral statement under oath or just  
6 a public comment?

7 MS. VINEYARD: Just public comment.

8 HEARING OFFICER HALLORAN: Okay. Just  
9 state your name and spell it for the court  
10 reporter.

11 MS. VINEYARD: Chrisi Vineyard,  
12 C-H-R-I-S-I, V-I-N-E-Y-A-R-D. I live in  
13 Oswego, Illinois.

14 HEARING OFFICER HALLORAN: Thank you.

15 MS. VINEYARD: I hope the Pollution  
16 Control Board will recognize that the bottom  
17 line the aldermen and mayor took their vote  
18 very seriously and based their vote on the  
19 Fox Moraine landfill because they failed to  
20 meet all nine criteria based on all the  
21 evidence at the hearing.

22 The statement that Alderman Robyn  
23 Sutcliffe is not cooperative on the stand,  
24 for the record, Alderman Sutcliffe cannot

1 hear or see from one side.

2 The questions were not clear.  
3 Please reconsider that statement. This  
4 hearing is nothing more than an attempt by  
5 the attorneys to influence you by twisting  
6 their intentions on their vote.

7 If you are against murder, should  
8 you not be on the jury for a murder case?

9 Attorneys are experts at twisting  
10 the opposite point of view to their own, even  
11 when they are arguing against common sense  
12 and logic. Only a well-trained attorney can  
13 make common sense and a desire to protect our  
14 environment sound sinister. Please do not  
15 let the corporate drive for profit influence  
16 your decision.

17 We do have alternatives to  
18 landfills. Now is the time to put a stop to  
19 an outdated system that poisons our drinking  
20 water and wrecks the property around it.

21 Some of their experts were not  
22 credible during the hearing because they  
23 would not recognize there are alternatives to  
24 landfills that are available today. Thank

1           you.

2                   HEARING OFFICER HALLORAN: Thank you.  
3           Anyone else? We're going to go off the  
4           record briefly. Counsel is going to discuss  
5           post-hearing briefing schedules and we'll  
6           come back on in a few minutes. Thank you.

7                                   (Brief pause.)

8                   HEARING OFFICER HALLORAN: We're back  
9           on the record. We've discussed some  
10          post-hearing briefing schedules. We've  
11          discerned that the transcript will be ready  
12          on our website by May 6th, 2009.

13                           Fox Moraine's opening brief will  
14          be due June 12th. The amicus brief and  
15          Kendall County's brief is due June 26th.

16                           Yorkville's opening brief is due  
17          July 17th. Fox Moraine's reply, if any, is  
18          due July 31st.

19                           I set public comment date due  
20          June 5th, 2009.

21                           The record will close then on  
22          July 31st.

23                           And, Mr. Mueller, regarding the  
24          waiver of the decision deadline?



1 he said 11 and 12. I think he meant to say  
2 10 and 11.

3 HEARING OFFICER HALLORAN: I haven't  
4 seen them. Mr. Mueller, on this Fox  
5 Moraine's Exhibit No. 10, you have the orders  
6 entered, this I guess docket sheet. This is  
7 not an order or a ruling.

8 MR. MUELLER: The docket sheet  
9 contains a note of the dismissal. There is  
10 no written order of it.

11 HEARING OFFICER HALLORAN: Okay. You  
12 know, it's close enough. I will take, over  
13 objection obviously, Fox Moraine's Exhibit  
14 No. 10. I took official notice of the  
15 circuit court's ruling in number 07 0V 43.

16 And Fox Moraine's Exhibit No. 11,  
17 it appears there is just court orders in  
18 here, which I have agreed to accept as  
19 official notice.

20 Over objection, Fox Moraine's  
21 Exhibit No. 11 is taken.

22 Is that it now?

23 MR. HARKNESS: Mr. Hearing Officer, I  
24 think on behalf of both the County as

1           intervenor and also the amicus brief, if we  
2           could have those briefs and submissions due  
3           on the same date, July 17th, as Yorkville's,  
4           we may be able to streamline some of the  
5           statements of fact.

6                     And I've spoken with counsel for  
7           both parties. If they have no objection, we  
8           would amend that one submission to July 17th  
9           rather than June 26th. That would not affect  
10          the reply date of the petitioner of July  
11          31st.

12                    MR. KNIPPEN: And I would join in  
13          that, your Honor.

14                    MR. MUELLER: Mr. Halloran, in the  
15          past when I've represented an amicus and that  
16          amicus has been aligned with a respondent,  
17          the Board was kind enough to let me file my  
18          brief at the same time as the respondent's  
19          brief was due, so I guess I have no  
20          objection.

21                    HEARING OFFICER HALLORAN: Okay.  
22          Thank you, Mr. Mueller. I appreciate it.

23                    So the County's brief and the  
24          amicus brief is now due July 17th.

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I want to thank all of counsel for their civility and professionalism. It's been a pleasure. I want to thank the public and I want to thank the City of Yorkville for their accommodations and hospitality. It's been great. It's great weather out, so go out and enjoy and have a great one. Thank you.

(Which were all the proceedings had in the above-entitled cause on this date.)

1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF WILL )

3

4 I, Tamara Manganiello, CSR, RPR, do hereby  
5 certify that I reported in shorthand the proceedings  
6 held in the foregoing cause, and that the foregoing  
7 is a true, complete and correct transcript of the  
8 proceedings as appears from my stenographic notes so  
9 taken and transcribed under my personal direction.

10

*Tamara Manganiello*

11

TAMARA MANGANIELLO, CSR, RPR  
License No. 084-004560

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SUBSCRIBED AND SWORN TO  
20 before me this 27th day  
21 of April, A.D., 2009.

21

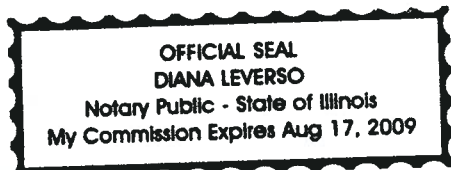
*Diana Leverso*

22

Notary Public

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24





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