### Electronic Filing - Received, Clerk's Office, July 17, 2009

#### BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORAINE, LLC,	)
Petitioner	) PCB 07-146
v. UNITED CITY OF YORKVILLE, CITY COUNCIL,	<ul> <li>(Pollution Control Board Facility</li> <li>Siting</li> <li>Appeal)</li> </ul>
Respondent	) ) )

#### **NOTICE OF FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that the undersigned has, on this 17<sup>th</sup> day of July, 2009, caused to be filed with the Clerk of the Illinois Pollution Control Board, via electronic filing, the attached Post-Hearing Brief on behalf of Intervenor, Kendall County, Illinois, a copy of which is attached hereto .

Respectfully submitted,

Kendall County, Illinois

By: /s/James S. Harkness

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FOX MORAINE, LLC,	)
Petitioner	) PCB 07-146
v.	) (Pollution Control Board Facility
UNITED CITY OF YORKVILLE, CITY COUNCIL,	) Siting ) Appeal) )
Respondent	)

#### **SERVICE LIST**

#### For Petitioner

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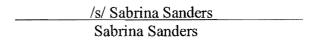
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#### **PROOF OF SERVICE**

Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure, Jessica Tosh, the undersigned non-attorney certifies that she served a true and correct copy of the foregoing Notice of Filing and Post-Hearing Brief on behalf of Intervenor, Kendall County, Illinois on the Hearing Officer and all Counsel of Record via e-mail transmission on July 17, 2009, prior to 5:00 p.m.



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FOX MORAINE, LLC,	)
Petitioner	) PCB 07-146
v. UNITED CITY OF YORKVILLE, CITY	) (Pollution Control Board Facility Siting ) Appeal)
COUNCIL,	)
Respondent	)
KENDALL COUNTY,	
Intervenor.	)

#### POST-HEARING BRIEF OF INTERVENOR, KENDALL COUNTY

**NOW COMES** Intervenor, KENDALL COUNTY, by and through its attorneys MOMKUS McCLUSKEY, LLC, and as and for its Post-Hearing Brief, states as follows:

- 1. Intervenor Kendall County adopts and incorporates herein Section III, Subsections E and F of the Post-Hearing Brief of Respondent, The United City of Yorkville.
- 2. Intervenor Kendall County also adopts and incorporates herein the Stipulation entered into by Fox Moraine, LLC and Intervenor Kendall County on April 21, 2009 in the matter of PCB No. 07-146, which, in summary, states that evidence related to Kendall County is limited to that in the record of the underlying proceedings conducted pursuant to 415 ILCS 5/39.2, et. seq., and any written submissions following the 415 ILCS 5/40.1, et. seq. hearing. The Stipulation is attached hereto and incorporated herein as Exhibit A.

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Respectfully submitted,

KENDALL COUNTY,

By: /s/ James S. Harkness
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# EXHIBIT A

# FOX MORAINE, LLC, Petitioner, V. PCB No. PCB 07-146 UNITED CITY OF YORKVILLE, CITY COUNCIL,

Respondent.

#### STIPULATION BETWEEN FOX MORAINE, LLC AND THE COUNTY OF KENDALL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

It is hereby stipulated and agreed, by and between FOX MORAINE, LLC and the COUNTY OF KENDALL, ILLINOIS, through their respective attorneys, as follows:

Although the discovery process in the above-captioned matter has revealed some contacts between the former Kendall County environmental attorneys, Jeep & Blazer, and United City of Yorkville officials regarding Fox Moraine LLC's landfill siting application that were outside of the landfill siting hearing process, the discovery process has not revealed any violations of principles of fundamental fairness by any Kendall County officials.

Accordingly, the parties hereto stipulate and agree that said contacts will not be the subject of examination nor submitted into evidence at or in the 415 ILCS 5/40.1, et seq., hearing to be conducted in this matter. The parties hereto further stipulate and agree that any evidence that will be submitted during the 415 ILCS 5/40.1, et seq., proceeding regarding the County of Kendall's evidence, witnesses, exhibits, and submissions entered during the 415 ILCS 5/39.2, et seq., proceedings shall be limited to written submissions following Section 40.1 hearing, and to evidence submitted during the underlying Section 39.2 proceeding, and any Section 40.1 discovery proceedings, and that the County of Kendall and its witnesses need not appear at, attend, or produce any evidence at the Section 40.1 hearing scheduled to commence Tuesday, April 21, 2009.

Signed: FOX MORAINE, LLC

OUNTY OF KENDALL

By:

Charles F. Helsten

One of Their Attorneys

One of Its Attorneys

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