

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
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SEP 02 2010  
STATE OF ILLINOIS  
Pollution Control Board

VEOLIA ES ZION )  
LANDFILL, INC., )  
 )  
Petitioner, )  
 )  
v. )  
 )  
CITY COUNCIL OF THE )  
CITY OF ZION , Illinois, )  
 )  
 )  
Respondent. )

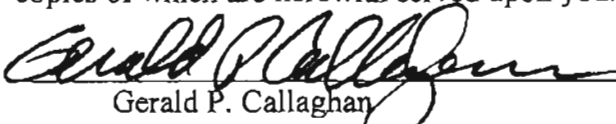
PCB 11-10  
(Pollution Control Facility Siting Appeal)

NOTICE OF FILING

To: Honorable Lane Harrison                      Judy Mackey  
Mayor, City of Zion                                      City Clerk, City of Zion  
2828 Sheridan Road                                      2828 Sheridan Road  
Zion, Illinois 60099                                      Zion, Illinois 60099

Paula Randall  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer  
175 E. Hawthorn Parkway, Suite 145  
Vernon Hills, Illinois 60061

PLEASE TAKE NOTICE that on September 2, 2010 I have filed with the Office of the Clerk of the Pollution Control Board the original and nine copies of the Petition For Hearing To Contest Siting Condition of Veolia ES Zion Landfill, Inc. and the Appearance of Gerald P. Callaghan, copies of which are herewith served upon you.

  
\_\_\_\_\_  
Gerald P. Callaghan  
Attorney For Petitioner

Date: September 2, 2010

Gerald P. Callaghan  
Freeborn & Peters LLP  
Attorneys for Petitioner  
311 S. Wacker Drive, Suite 3000  
Chicago, IL 60606-6677  
Telephone: (312)360-6000

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Respondent. )

PCB 11-10  
(Pollution Control Facility Siting Appeal)

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Veolia ES Zion Landfill, Inc.

  
Gerald P. Callaghan  
Attorney For Petitioner

Date: September 2, 2010

Gerald P. Callaghan  
Freeborn & Peters LLP  
Attorneys for Petitioner  
311 S. Wacker Drive, Suite 3000  
Chicago, IL 60606-6677  
Telephone: (312)360-6000

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STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

VEOLIA ES ZION )  
 LANDFILL, INC., )  
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 Petitioner, )  
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 CITY COUNCIL OF THE )  
 CITY OF ZION , Illinois, )  
 )  
 )  
 Respondent. )

PCB 11-10  
(Pollution Control Facility Siting Appeal)

**PETITION FOR HEARING TO CONTEST SITING CONDITION**

Petitioner Veolia ES Zion Landfill, Inc. ("Veolia"), by and through Freeborn & Peters LLP, its attorneys, respectfully requests a hearing before this Board to contest a certain condition imposed by the City Council of the City of Zion, Illinois, ("City") in connection with the City's site location approval for the proposed expansion of the Zion Landfill. In support of this Petition, Veolia states as follows:

1. This Petition is filed pursuant to Section 40.1(a) of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/40.1.
2. On February 8, 2010, Veolia filed a request for siting approval ("Application") with the City to expand the Zion Landfill both horizontally and vertically (the "Expansion"). The Expansion will encompass approximately 317.9 acres owned by Veolia, in the City of Zion, Lake County, Illinois. The 317.9-acre facility will include a 26.47-acre horizontal or lateral expansion of the existing landfill footprint and a vertical expansion on approximately 53.75 acres of the existing landfill footprint.
3. The public hearings on the Application were held on May 12, 13, 17 and 25, 2010.

4. On August 3, 2010, the City voted to approve the Application, subject to twenty-five (25) siting conditions. A true and correct copy of the City's Ordinance No. 10-0-40, entitled "An Ordinance Approving the Application of Veolia ES Zion Landfill, Inc. Subject to Certain Special Conditions for Siting Approval of a Pollution Control Facility on Property Located Within the City of Zion, Illinois," is attached hereto as Exhibit A ("Siting Decision").

5. Veolia contests Condition 2.2, which was imposed by the City in the Siting Decision, on the grounds that said condition is: unsupported by the record; against the manifest weight of the evidence; standardless; vague; not within the authority of the City to impose; not reasonable and necessary to accomplish the purposes of Section 39.2 of the Act; potentially in conflict with permit conditions imposed by the Illinois Environmental Protection Agency; and inconsistent with the regulations promulgated by the Board.

WHEREFORE, Veolia respectfully requests that this Board: a) enter an order setting this matter for hearing; b) after such hearing, reverse and strike Condition 2.2 from the Siting Decision; and c) grant such other and further relief as this Board deems appropriate.

Respectfully submitted,  
VEOLIA ES ZION LANDFILL, INC.

By:   
One of its Attorneys

Gerald P. Callaghan  
Freeborn & Peters LLP  
Attorneys for Petitioner  
311 S. Wacker Drive,  
Suite 3000  
Chicago, IL 60606-6677  
Telephone: (312)360-6000

**EXHIBIT A**

**SITING DECISION**

**Ordinance No. 10-0-40**

**An Ordinance Approving the Application of Veolia ES Zion Landfill, Inc.  
Subject to Certain Special Conditions for Siting Approval of a Pollution  
Control Facility on Property Located Within the City of Zion, Illinois**

# City of Zion



2828 Sheridan Road  
Zion, Illinois 60099

(847) 746-4000  
(847) 746-7167 FAX  
www.cityofzion.com

"Historic Past - Dynamic Future"

Lane Harrison  
MAYOR

Commissioners  
Jim E. Taylor  
Lloyd E. DeTienne  
Frank A. Flammini  
Shantal R. Taylor

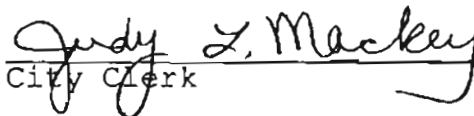
State of Illinois     )  
                                  )    ss  
County of LAKE        )

I, Judy L. Mackey, do hereby certify that I am duly appointed, qualified and acting City Clerk of the City of Zion, a municipal corporation of the County of Lake, State of Illinois; and as such I have in my custody the records, proceedings and ordinances of the said City of Zion.

I further certify that attached hereto is a true and exact copy of a certain Ordinance (10-0-40) Approving the Application of Veolia ES Zion Landfill, Inc. for Siting Approval of a Pollution Control Facility within the City of Zion, Illinois, and that said Ordinance was duly passed by the City Council of the City of Zion by roll call vote at a regular meeting thereof held on August 3, 2010.

That a quorum was present at said meeting and that all members of the Council present voted in favor thereof and no one voted against it.

IN WITNESS THEREOF I have hereunto set my hand and affixed the Corporate Seal of said City of Zion this 4th day of August, 2010.

  
\_\_\_\_\_  
City Clerk

(S E A L)

10-O-40

AN ORDINANCE APPROVING THE APPLICATION OF  
VEOLIA ES ZION LANDFILL, INC.  
SUBJECT TO CERTAIN SPECIAL CONDITIONS  
FOR SITING APPROVAL OF A POLLUTION CONTROL FACILITY  
ON PROPERTY LOCATED WITHIN  
THE CITY OF ZION, ILLINOIS

WHEREAS, Pursuant to Section 39.2 of the Illinois Environmental Protection Act, 415 ILCS 5/39.2 ("the Act"), the City Council of the City of Zion ("the City") has the authority to approve or deny requests for local siting approval for each new pollution control facility, including expansions of existing pollution control facilities, that are subject to review; and

WHEREAS, Veolia ES Zion Landfill, INC. ("Applicant") has duly filed an application for siting approval to expand the currently operating Veolia E.S. Zion Landfill vertically and horizontally in the City of Zion, Illinois; and

WHEREAS, Pursuant to Section 39.2 of the Act, the City is required to and did conduct a public hearing on the application filed by Veolia ES Zion Landfill, Inc.; and

WHEREAS, the City acknowledges that the siting approval procedures, criteria and appeal procedures provided for in the Act for pollution control facilities, and such local rules permitted thereby, are the exclusive siting procedures and rules and appeal procedures for facilities subject to such procedures; and

WHEREAS, the City has reviewed the evidence in the record concerning the statutory criteria; and

WHEREAS, the City has received closing arguments and briefs and the City has

10-O-40

reviewed the same, including the reports of City Staff, the Applicant and the Hearing Officer proposing certain proposed findings of fact, conclusions of law and special conditions of approval.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSIONERS OF THE CITY OF ZION, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. Recitals. The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Findings of Fact. Pursuant to Section 31-6(c)(1)(k) of the City of Zion's Pollution Control Facility Siting Ordinance (the "Siting Ordinance"), the hearing officer submitted Proposed Findings of Fact, Conclusions of Law, and Recommendations, dated July 16, 2010 (the "Hearing Officer's Report"). The City adopts the findings of fact contained within, referenced by and incorporated into the Hearing Officer's Report, and by so doing the City expressly adopts all citations, references and incorporations made by the Hearing Officer's Report as its own to the same extent as though fully set forth herein. The City further finds, in expansion of but not in limitation of the foregoing, that it has proper jurisdiction to hear the Applicant's application for local siting approval, all notices required by law were duly given, the procedures outlined in the Siting Ordinance were duly followed, and such procedures were fundamentally fair to the Applicant and all Participants.

SECTION 3. Conclusions of Law. Subject to the modified conditions described in Section 4 herein, the City adopts the conclusions of law contained with the Hearing Officer's Report and incorporates them the same as though fully set forth herein.



SECTION 4. Decision. The City approves the application of Veolia ES Zion Landfill, Inc. subject to the following special conditions:

- A. General Condition of Approval. All representations made by the Applicant in its application; in its design documents; and during the testimony offered in its case in chief and through its public comment submittals; as well as the terms of the Host Agreement; all as modified by any other condition set adopted hereby, should all be made a condition of approval.
- B. The City adopts the special conditions described in the Hearing Officer's Report identified as Conditions 2.1, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10 (as amended), 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.20, 2.21, 2.22, 3.1, 3.2, 6.1 and 7.1, and incorporates the same the same as though fully set forth herein.
- C. Special Condition 2.2 shall provide as follows:
  - 2.2 Prior to submitting the development permit application to the IEPA for the landfill gas collection and control system for the proposed Facility, the Owner/Operator shall submit draft plans, designs, and an operations and maintenance plan relating thereto to the City of Zion for review and approval. Thereafter, prior to submitting any and all pertinent permit applications to the IEPA for modification to the landfill gas collection and control system for the proposed Facility, the Owner shall submit notice thereof to the City of Zion, which may exercise the option to review and approve said plans by giving notice of such election within 10 business days of receipt. In both cases, the City shall have up to 60 days from submittal of such plans to render its approval or conditional approval of the proposed design. The Owner/Operator shall be responsible for reimbursing the City for any costs related to the review of proposed designs.
- D. Special Condition 2.3 shall provide as follows:
  - 2.3 The gas collection and control system shall be operated principally for the purpose of environmental management. At no time shall the operator of the gas-powered electricity generation facility have the right or opportunity to direct the volume or characteristics of the landfill gas collected by the gas collection and control system.

SECTION 5. Incorporation. The following described documents are attached hereto, incorporated and made a part hereof the same as though fully set forth herein, to the extent required to provide the substance of the findings and conclusions described herein:

A. Proposed Findings of Fact, Conclusions of Law, and Recommendations, dated July 16, 2010, filed by the Hearing Officer;

B. Proposed Findings of Fact and Conditions of Approval, dated June 6, 2010, filed by the City Staff and Ancel Glink;

C. Findings Of Fact And Conclusions Of The City of Zion, dated June 8, 2010, filed by the Applicant.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the Ordinance.

SECTION 7. Prior Ordinances. All prior Ordinances and Ordinances in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION 8. Effective Date. This Ordinance shall take effect after its passage and approval.

10-O-40


ADOPTED this 3<sup>rd</sup> day of August, 2010, pursuant to a roll call vote as follows:

AYES: Comms. Shantal Taylor, DeTienne, Flammini, Mayor Harrison

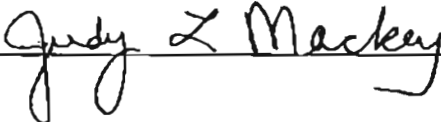
NAYS: None

ABSENT: Commissioner Jim Taylor

APPROVED this 3rd day of August, 2010.

  
\_\_\_\_\_  
Mayor Lane Harrison

ATTEST:

  
\_\_\_\_\_  
Judy Mackey, City Clerk

# HINSHAW

& CULBERTSON LLP

RECEIVED

JUL 19 2010

*Judy Mackey*

July 16, 2010

**Via Regular Mail and E-Mail**  
Ms. Judy L. Mackey, MMC  
City Clerk  
Township Clerk  
City of Zion  
2828 Sheridan Road  
Zion, IL 60099

**ATTORNEYS AT LAW**

100 Park Avenue  
P.O. Box 1389  
Rockford, IL 61105-1389

815-490-4900  
815-490-4901 (fax)  
www.hinshawlaw.com

**Re: On the Matter of the Application of Veolia Es Zion Landfill, Inc. for Local Siting Approval to Expand the Currently Operating Veolia Es Zion Landfill in Accordance with Section 39.2 of the Illinois Environmental Protection Act and the City of Zion Pollution Control Facility Siting Ordinance**

Dear Ms. Mackey:

Please find enclosed my Proposed Findings of Fact, Conclusions of Law and Recommendations in regard to the above-referenced matter.

Sincerely,

HINSHAW & CULBERTSON LLP

  
Charles F. Felsten  
815-490-4906  
cfelsten@hinshawlaw.com

CFH:dmh  
Enclosure

cc: P. Randall, Ancel Glink  
A. Simon, Ancel Glink  
L. Clark  
Robert and Robin Bunner  
Kathleen Barnett  
Daniel J. Kreul

CITY OF ZION  
LAKE COUNTY, ILLINOIS

ON THE MATTER OF THE APPLICATION )  
OF VEOLIA ES ZION LANDFILL, INC. FOR )  
LOCAL SITING APPROVAL TO EXPAND )  
THE CURRENTLY OPERATING VEOLIA ES )  
ZION LANDFILL IN ACCORDANCE WITH )  
SECTION 39.2 OF THE ILLINOIS )  
ENVIRONMENTAL PROTECTION ACT )  
AND THE CITY OF ZION POLLUTION )  
CONTROL FACILITY SITING ORDINANCE, )  
)

**HEARING OFFICER'S PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDATIONS**

The following represents your Hearing Officer's Proposed Findings of Fact, Conclusions of Law and Recommendations concerning the above matter.

As specifically provided for in Section 31-2 of the City of Zion Ordinance No. 08-0-21, entitled An Ordinance Establishing Pollution Control Facility Siting Standards, (Siting Ordinance), I, as Hearing Officer, do not have the right or power to vote on this request. Rather, the Proposed Findings of Fact, Conclusions of Law submitted herein are simply advisory in nature, and should be given whatever weight the City Council deems appropriate.

**INTRODUCTION**

On February 8, 2010, Veolia ES Zion Landfill, Inc. ("Veolia") filed its Application for Siting Approval for the Veolia ES Zion Landfill Site 2 East Expansion ("Application") with the City of Zion, Illinois ("City"). An original, 2 paper, and 40 electronic copies were filed. The Application consists of seven (7) volumes, containing the Table of Contents, Executive Summary, Siting Ordinance Summary Table, Sections 1 through Section 10, reduced Geologic Drawings Nos. G1 through G28, reduced Design Drawings Nos. D1 through D22, and

Appendices A through W. Additionally, full size (30" x 42") drawings of the Geologic and Design Drawings were provided as part of the Application.

Pursuant to the Application, Veolia seeks to expand an existing Pollution Control Facility that is currently operated as a sanitary landfill (the "Pollution Control Facility") both horizontally (East onto approximately 26.47 acres adjoining the existing Pollution Control Facility), and vertically (above approximately 53.75 acres of the existing Pollution Control Facility), resulting in an overall waste footprint of approximately 80.22 acres.

The property that constitutes the proposed Pollution Control Facility contains 317.9 acres, more or less.

Veolia is the owner and operator of the existing Pollution Control Facility that it intends to expand.

On May 12, May 13, May 17, and May 25, 2010, public hearings were held on the Application at the Zion City Hall. The City retained Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C. ("Ancel Glink"), as well as certain technical consultants to perform an independent technical review and analysis of the Application. Based upon their review of the Application, Ancel Glink, on behalf of City Staff, as well as itself and the technical consultants, concluded that the Application met the requirements of Section 39.2 of the Act and the Ordinance (subject to certain conditions that were recommended by Ancel Glink and City Staff).

In addition to City Staff, the Solid Waste Agency of Lake County, Illinois (SWALCO) registered as a participant in the siting proceeding, and participated in the public hearing held on the Application. Several interested citizens who live in close proximity to the Facility (Kathleen Barnett, Robert and Robin Bunner, and Daniel Kreul) also registered as participants pursuant to relevant sections of the Siting Ordinance and participated in the public hearing held on the

Application. All participants are to be commended on the quality of their respective presentations.

In addition, members of the general public were afforded the opportunity at the public hearing to make statements under oath and/or offer public comment.

### JURISDICTIONAL AND PROCEDURAL MATTERS

At least 14 days prior to filing its Application, Veolia served written notice of its intent to file the Application ("Filing Notice") in person and/or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by Veolia and on the owners of all property within 250 feet in each direction of the lot line of the Subject Property (excluding roadways), said owners being such persons or entities which appear from the authentic tax records of Lake County. Veolia further served the Filing Notice in person and/or by registered mail, return receipt requested, at least 14 days prior to filing the Application, on the members of the General Assembly from the legislative district in which the Proposed Facility is located. Veolia further caused the Filing Notice to be published in two newspapers of general circulation published in Lake County (the News-Sun and the Zion-Benton News).

The Filing Notice was served and published within the prescribed time period set forth in Section 39.2(b) of the Illinois Environmental Protection Act, as well as Section 31-2 of the City of Zion Ordinance No. 08-0-21 (Siting Ordinance).

The Application contains all the information required not only by Section 39.2(c) of the Act, but Section 31-3 of the Siting Ordinance as well.

In addition, Veolia paid the required \$250,000 application fee to the City pursuant to Section 31-3(C)(12) of the Ordinance on May 8, 2010.

Prior to commencement of the public hearing, Veolia caused notice of the public hearing on its Application ("Public Hearing Notice") to be served by certified mail, return receipt requested, on the members of the General Assembly from the legislative district in which the Proposed Facility is located, the Illinois Environmental Protection Agency ("IEPA"), the City of Zion City Council, the governing authority of each municipality contiguous to the Proposed Facility or contiguous to the City of Zion, and the governing authority of each municipality and township within 1½ miles of the Proposed Facility. Veolia caused the Public Hearing Notice to be published in two newspapers of general circulation published in the City of Zion or Lake County on January 12 and January 21, 2010.

The public hearing on the Application (which again was held on May 12, May 13, May 17 and May 25, 2010) was held no sooner than 90 days but not later than 120 days after the date on which the City of Zion received the request for site approval. Moreover, a thirty (30) day post-hearing public comment period commenced on May 26, 2010, and continued for thirty (30) days thereafter.

Veolia did not file an amendment to its Application.

No request for local siting approval of the Proposed Facility, which is substantially the same as a request that was disapproved under any of the criteria set forth in Section 39.2 of the Act has been filed within the preceding two years (all as defined by Section 39.2(m) of the Act).

Accordingly, and based upon all the above, I find that the Applicant has satisfied the procedural and jurisdictional requirements set forth in Section 39.2 of the Act, as well as the Siting Ordinance, and the City of Zion City Council has jurisdiction to consider and decide this matter.

**Criterion 1: The facility is necessary to accommodate the waste needs of the area it is intended to serve.**



Your Hearing Officer has determined that subparagraphs 1-11 set forth under the Criterion 1 section of Veolia's Proposed Findings of Fact and Conclusions accurately set forth the facts as presented in the Application and by its testifying witness (Mr. Philip Kowalski) on Criterion 1, and are appropriate for inclusion within these Findings of Fact and, accordingly, I adopt the same incorporate the same as if fully set forth verbatim herein. Moreover, I find the testimony of Mr. Kowalski to be credible in all respects. Accordingly, I find that the Applicant has demonstrated compliance with Criterion 1 included at Section 39.2(a) of the Act, and that the Site 2 East Expansion is necessary to accommodate the waste needs of the area it is intended to serve.

**Criterion 2: The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.**

Your Hearing Officer finds that subparagraphs 1-50 set forth under the Criterion 2 section of Veolia's Proposed Findings of Fact and Conclusions accurately set forth the facts as contained in the Application and as presented by the Applicant at the public hearing held in this matter, and are appropriate for inclusion within these Findings of Fact, accordingly, I adopt the same and incorporate the same by this reference as if fully set forth verbatim herein. Moreover, your Hearing Officer finds that the Proposed Findings of Fact and Conclusions set forth by the City Staff and Ancel Glink in their discussion of Criterion 2 also reasonably and accurately portray those matters presented on Criterion 2 at the public hearing.

The City Staff and Ancel Glink further indicated that they find the testimony of Devin Moose and Dan Drommerhausen to be credible, and that the testimony of both (when taken together) demonstrate that the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected, **subject to the imposition of certain conditions proposed by City Staff.** In this regard, it should be noted that on or about June 10,

2010, Veolia filed its "Consent to Conditions Proposed by City Staff and Special Consultants". More specifically, Veolia has agreed to be bound by Conditions 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.20, 2.21, 2.22, 3.1, 3.2, 6.1 and 7.1. I likewise find the testimony of Mr. Moose and Mr. Drommerhausen to be credible. I further find these Conditions (as amended in the manner set forth herein below) to be reasonable and necessary to accomplish the purposes of Section 39.2, and that these Conditions are not inconsistent with relevant regulations promulgated by the Illinois Pollution Control Board.

With respect to Special Condition 2.10, SWALCO has submitted independent public comment. As noted by SWALCO, Special Condition 2.10 proposed by City Staff states as follows: "Owner/Operator shall respond to any complainant within three (3) business days. Such response shall include, to the extent practicable, the identity of the complainant, the complainant's address and the nature of the complaint." It is the belief of SWALCO that all complaints should be responded to within 24 hours of the time received, unless such complaints are received on a weekend, in which case any complaint should be responded to by 6 p.m. on the first regular working day thereafter. SWALCO also comments that by responding to a complaint in this manner, better information can be obtained from the complainant (i.e., the wind direction, speed and other atmospheric conditions present at the time of the complaint can be documented so as to provide a reliable foundation for evaluation of the underlying causes of the concern which has been raised). In addition, according to SWALCO, the memory of the complainant can be more effectively probed as to the type of odor encountered and other potentially relevant factors. SWALCO also notes that compression of the time for response to complaints from three (3) business days to 24 hours will not affect the timing of Veolia's root cause analysis (as required by Special Condition 2.12), and that a more immediate response assures the public that

Veolia places a high priority on the correct operation of the landfill and takes all complaints seriously.

Your Hearing Officer generally concurs with all the observations made by SWALCO, but believes that the 24 hour time frame for response proposed by SWALCO may be unrealistically short. Accordingly, it is the recommendation of your Hearing Officer that all complaints should be responded to within 48 hours of the time the complaint is received (unless such complaints are received on a weekend, in which case any complaint should be responded to by 6 p.m. on the second regular working day thereafter).

Your Hearing Officer would like to offer some additional comments and observations concerning Special Condition 2.2 and 2.3 which have been recommended by City Staff and Ancel Glink.

Special Condition 2.2 properly envisions some degree of meaningful input from the City in the planning and design of the landfill gas and collection control system for the expansion area. However, your Hearing Officer believes the oversight and review process envisioned by City Staff and Ancel Glink may need to continue above and beyond the development permit stage of the IEPA permitting process. My rationale is as follows. 35 IAC 812.310-311 provides, in pertinent part, that an expansion of this type will trigger the need to install a gas collection and treatment system. In turn, and over and above any permits which will need to be issued for the development and construction of various areas of the proposed expansion from IEPA's Bureau of Land (BOL), an air quality construction permit for the landfill gas and control system will need to be obtained from the IEPA Bureau of Air (BOA) consistent with the Illinois air quality regulations set forth at 35 IAC Part 220 and/or with the federal New Source Performance Standard (NSPS) 40 CFR Part 60, Subpart WWW for new and "modified" landfills. More

specifically, the requirement for obtaining an air quality construction permit (over and above any separate permits required by IEPA's BOL) is specifically referenced at 812.311.

It should also be noted that the NSPS Subpart WWW permit requires collection and control of landfill emissions to the level deemed to be "Best Demonstrated Technology" (BDT), which process can be "technology forcing", because it requires application of the "best technology" that has been adequately demonstrated on a "rolling", progressive basis across the industry. The Subpart WWW requirements applicable to landfill gas collection and control systems of this type allow a wide variety of collection system design variables, due, in part to the many site-specific factors involved in design and operation of a landfill gas system of this type. Moreover, the design of the landfill gas collection and control system may need to be changed in the future (i.e., over the life of the landfill), since installation and operation of a gas control system is a progressive process that takes place over time as the landfill is gradually developed. Gas control systems are required in active landfill areas where refuse was first deposited five years before. Put a different way, after initial installation of the gas collection system, modifications may very well need to be made to the collection system as active areas in which waste was first deposited reach the age of five years and beyond.

In short, and put a different way, review of the landfill gas collection and control system design information provided initially at the BOL development permit application stage may not adequately address the multiple system design and development alternatives later allowed (as well as possibly required) by NSPS Subpart WWW. In addition, the new air quality construction permit application submitted to IEPA BOA is much more likely to provide the detailed information required to satisfy Subpart WWW standards, and provide a much more accurate depiction of the landfill gas collection and control system to be installed. In turn, permit

conditions may need to be added over time in the future, which would necessitate additional, later "rounds" of review by the City of Zion for changes proposed to the landfill collection and control system in order to address future site Specific Conditions as the landfill is developed over time.

Accordingly, and based on all the above, I would amend Special Condition 2.2 to read as follows:

"Prior to submitting any and all pertinent permit applications to the IEPA for development, operation, maintenance and expansion of the landfill gas collection and control system for the Proposed Facility, the City shall have up to sixty (60) days from date of submittal of any such permit applications to render its approval or denial of the proposed design of that particular component of the landfill gas collection and control system (which approval will not be unreasonably withheld). The owner/operator shall be responsible for reimbursing the City for any and all reasonable and necessary cost related to the review of the proposed design".

Your Hearing Officer also understands the concern that has been identified by City Staff and Ancel Glink and which gives rise to Special Condition 2.3. In essence, City Staff and Ancel Glink have identified the inherent tension which sometimes arises between: 1) the need to enhance the methane content of the gas derived from landfill operation to operate the methane gas-to-energy-facility in the most "environmentally efficient" manner, versus the need to take what steps are necessary (even if the steps in some manner compromise the effectiveness/profitability of the methane gas-to-energy-system's operation) to ensure that landfill gas is treated in whatever method is necessary to effectively control gas odors. In an attempt to balance these two considerations, I suggest that Special Condition 2.3 be amended to read as follows:

"The gas collection and control system shall be operated principally for the purpose of environmental management. At no time shall the operator of the gas-powered electricity generation facility have the right or the opportunity to direct the volume or characteristics of the landfill gas collected by the gas collection and control system in a method which would compromise the ability of the gas collection and control system to effectively collect, capture, and manage landfill gas

in a way that adequately and appropriately controls gas odors, and minimizes impacts on the surrounding area.

**Criterion 3: The facility is so located as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.**

Your Hearing Officer finds that subparagraphs 1-7, 20, 21, 22 and 23 of Veolia's Findings of Fact and Conclusions as they relate to Criterion 3 accurately set forth, depict and characterize evidence presented on behalf of the Applicant at the public hearing. Accordingly, your Hearing Officer adopts these findings by this reference as if fully set forth verbatim herein. However, and moreover, your Hearing Officer further believes that the general findings and comments set forth by City Staff with respect to Criterion 3 are also well taken. Accordingly, your Hearing Officer also adopts and incorporates those findings, comments and observations by this reference as if fully set forth verbatim herein.

With Special Conditions 3.1 and 3.2 proposed by City Staff (which, again, Veolia has expressly consented to), as well as in light of the Property Value Guarantee Plan and Plan of Operation included within the Application, I find that Veolia has established that the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding property and, accordingly has demonstrated compliance with Criterion 3 of Section 39.2(a) of the Act and the Siting Ordinance.

**Criterion 4: The facility is located outside the boundary of the 100-yard floodplain.**

Your Hearing Officer believes that subparagraphs 1-3 of the Criterion 4 section of Veolia's Proposed Findings of Fact and Conclusions accurately set forth the facts and evidence as presented at the public hearing on this criterion, and, accordingly, I adopt those findings by this reference as if fully and completely set forth verbatim herein. Moreover, as noted by City Staff, it is uncontroverted that the facility meets this criterion. Accordingly, I find that Veolia

has demonstrated compliance with Criterion 4 of Section 39.2(a) of the Act and of the Siting Ordinance.

**Criterion 5: The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.**

Your Hearing Officer also finds that subparagraphs 1-10 of the Criterion 5 section of Veolia's Proposed Findings of Fact and Conclusions accurately set forth those matters presented and testified to at the public hearing on this criterion, and, accordingly, those findings are incorporated by this reference as if fully and completely set forth verbatim herein. Moreover, as noted by the City Staff, it is uncontroverted that this facility meets Criterion 5. Accordingly, and based upon all of the above, I find that Veolia has demonstrated compliance with Criterion 5 of Section 39.2(a) of the Act and the Siting Ordinance.

**Criterion 6: The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flow.**

Your Hearing Officer further finds that subparagraphs 1-16 set forth in Veolia's Proposed Findings of Fact and Conclusions which relate to Criterion 6 accurately set forth and depict those matters, facts and evidence presented at the public hearing, and I therefore incorporate them as part of my findings as if fully and completely set forth verbatim herein. I also find Mr. Werthmann credible in all respects. Accordingly, subject to imposition of Condition 6.1 proposed by City Staff (which, again, Veolia has expressly consented to) I find that Veolia has demonstrated compliance with Criterion 6 of Section 39.2(a) of the Act and the Siting Ordinance.

**Criterion 7: If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan for the facility will be developed to include notification, containment and evacuation procedures to be used in case of an accidental release.**

Your Hearing Officer further finds that subparagraphs 1-6 of Criterion 7 section of Veolia's Proposed Findings of Fact and Conclusions accurately set forth and depict those

matters, facts and evidence presented at the Siting Hearing on this criterion, and I therefore incorporate them as part of my findings as if fully and completely set forth verbatim herein. Again, subject to Special Condition 7.1 proposed by the City Staff (which, again, Veolia has expressly consented to) I find that Veolia has demonstrated compliance with Criterion 7 of Section 39.2(a) of the Act and the Siting Ordinance.

**Criterion 8: If the facility is to be located in a county where the county has adopted a solid waste management plan, the facility is consistent with the plan.**

Your Hearing Officer also finds that paragraphs 1-14 of the Criterion 8 section of Veolia's Proposed Findings of Fact and Conclusions accurately and completely set forth and depict those matters, facts and evidence presented at the public hearing on this criterion, and I therefore incorporate them as part of my findings as if fully and completely set forth verbatim herein. Moreover, as noted by City Staff, it is uncontroverted that the facility meets this criterion. Accordingly, I find that Veolia has demonstrated compliance with Criterion 8 of Section 39.2(a) of the Act and the Siting Ordinance.

**Criterion 9: If the facility will be located within a regulated recharge area, any applicable requirements specified by the Pollution Control Board for such areas have been met.**

Your Hearing Officer also finds that paragraphs 1-3 of the Criterion 9 section of Veolia's Proposed Findings of Fact and Conclusions accurately and completely set forth and depict those matters, facts and evidence presented at the public hearing on this criterion, and I therefore incorporate them as part of my Findings as if fully and completely set forth verbatim herein. Moreover, as noted by City Staff, it is uncontroverted that the facility meets this criterion. Accordingly, I find that Veolia has demonstrated compliance with Criterion 9 of Section 39.2(a) of the Act and the Siting Ordinance.



### OPERATING HISTORY (THE UNNUMBERED CRITERION)

In addition to reference to various pertinent portions of its application, Veolia offered testimony of Jim Lewis, Site Manager for Veolia ES Zion Landfill, Inc. concerning the operating history of the facility on May 13, 2010. Mr. Lewis is a Certified Landfill Operator in the State of Illinois. I found him generally to not be only credible, but also candid, forthright and sincere in his testimony. Section 39.2 (the unnumbered criterion) of the Act provides, in pertinent part, that the governing body of a municipality may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the Applicant (or any subsidiary or parent corporation) in the field of solid waste management when considering Criterion ii and iv under Section 39.2(a). In that regard, I believe that subparagraphs 1-20 of the unnumbered criterion section of Veolia's Proposed Findings of Fact and Conclusion of Law are relevant. Accordingly, I incorporate them as part of my findings as if fully and completely set forth verbatim herein for the City Council's consideration.

While all of the same (as well as Mr. Lewis' testimony) indicate that Veolia has committed substantial resources, time and effort to addressing conditions at the facility that have given rise to the issuance of several Notices of Violation, nonetheless, testimony received from both Mr. Lewis and Mr. Moose seemed to demonstrate that a further and continued commitment in this regard is not only warranted, but necessary. This is why I feel the Special Conditions proposed by Ancel Glink are both reasonable and necessary to accomplish the purposes of Section 39.2 of the Act, are not inconsistent with any relevant regulations promulgated by the Illinois Pollution Control Board and, as such, should be included as a necessary part of granting of site location approval for this facility.

## CONCLUSION OF LAW

Your Hearing Officer adopts paragraphs 1-4 of Veolia's Proposed Conclusions of Law by this reference as if fully and completely set forth herein.

I believe that Paragraph No. 5 of Veolia's proposed Conclusions of Law should be amended to read as follows:

Subject to imposition of the Conditions discussed in the Hearing Officer's Findings of Fact and Conclusion of Law, Veolia has met its burden of proving that the nine criterion of Section 39.2(a) of the Act and of the Siting Ordinance have been satisfied. Specifically, the Site 2 East Landfill Expansion meets each of the criteria set forth in Section 39.2(a) of the Act and the Siting Ordinance in that:

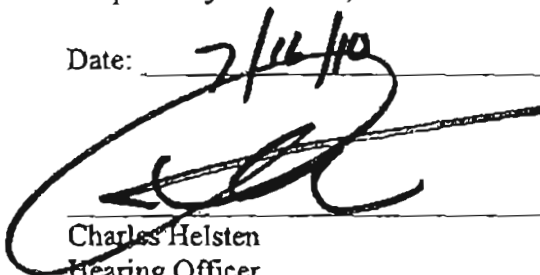
- a. the Site 2 East Landfill Expansion is necessary to accommodate the waste needs of the area it is intended to serve;
- b. the Site 2 East Landfill Expansion is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- c. the Site 2 East Landfill Expansion is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
- d. the Site 2 East Landfill Expansion is located outside the boundary of the 100-year flood plain;
- e. the plan of operations for the Site 2 East Expansion Landfill Expansion is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
- f. the traffic patterns to or from the Site 2 East Expansion Landfill Expansion are so designed as to minimize the impact on existing traffic flows;
- g. Veolia will not be treating, storing or disposing of hazardous waste at the Site 2 East Expansion Landfill Expansion;
- h. the Site 2 East Landfill Expansion is consistent with the Lake County Plan; and
- i. the Site 2 East Landfill Expansion meets Criterion 9 because it is not located within a regulated recharge area.

**RECOMMENDATION**

Based upon all of the above, it is my recommendation that the City Council of the City of Zion grant local siting approval to the Site East 2 Landfill Expansion, subject to the Conditions of siting which are incorporated herein. It is further recommended that the City Council consider each criterion separately as part of its decision-making process.

Respectfully submitted,

Date: 2/12/10



\_\_\_\_\_  
Charles Helsten  
Hearing Officer



DIAMOND BUSH  
DiCIANNI  
& KRAFTHOFER


A Professional Corporation  
175 E. Hawthorn Parkway, Suite 145  
Vernon Hills, IL 60061  
www.ancelglink.com

Adam B. Simon  
[asimon@ancelglink.com](mailto:asimon@ancelglink.com)  
Derke J. Price  
[dprice@ancelglink.com](mailto:dprice@ancelglink.com)

## MEMORANDUM

**To:** Mayor and Commissioners  
City of Zion

**CC:** Hearing Officer Helsten

**From:** Adam B. Simon   
Derke J. Price

**Subject:** Veolia ES Zion Landfill, Inc. Application for Local Siting Approval  
Proposed Findings of Fact and Conclusions of Law

**Date:** June 8, 2010

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This Memorandum will set forth Staff's (and special consultants') review of the testimony and record on the statutory criteria and, where appropriate, set forth conditions of approval. This Memorandum will conclude our work and those of the specially retained expert consultants hired in this matter and we thank you for the opportunity to be of assistance.

The siting authority may, pursuant to 415 ILCS 5/39.2(e), impose such conditions of approval as may be reasonable and necessary to accomplish the purpose of Section 39.2 and as are not inconsistent with regulations promulgated by the Pollution Control Board. Accordingly, we believe the following conditions are reasonable and necessary to effectuate the purposes of the Act and with them, we can recommend approval. We cannot recommend approval of the application without conditions as we believe these are necessary for the application to meet the requirements of the Act.

***General Condition of Approval:***

All representations made by the Applicant in its application; in its design documents; and during the testimony offered in its case in chief and through its public comment submittals; as well as the terms of the Host Agreement; and all as modified by any other condition set adopted by the City of Zion, should all be made a condition of approval.

City of Zion

Veolia ES Zion Landfill, Inc. Application for Local Siting Approval

June 8, 2010

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***Criterion 1. the facility is necessary to accommodate the waste needs of the area it is intended to serve;***

The testimony of Phil Kowalski was credible concerning the need for disposal capacity in the intended area of service for the projected service life of the Facility.

***Criterion 2. the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;***

In considering whether the facility is proposed to be operated so that the public health, safety and welfare will be protected, the City is permitted to consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management. As a result, the testimony, ability and experience of Jim Lewis should be given special weight in your consideration of whether the applicant has met its burden with respect to this Criterion since he has and will continue to serve as the General Manager of the Facility.

The testimony of Dan Drommerhausen and Devin Moose was credible and established that the natural clays present and the design of the facility (with the conditions set forth below) will meet the requirement to protect the public health, safety and welfare.

The record establishes a pattern of operational challenges related to the collection and control of landfill gas, the migration of dust and litter, and vector control related to bird migration. Each of these issues have resulted in complaints by neighbors living in the surrounding area. Mr. Lewis and Mr. Moose each testified to the measures the applicant finds reasonable to address these matters. The evidence and testimony under your consideration present a unique opportunity for the City to exert further control over the operations and, with the conditions set forth below, we can conclude that the public health, safety and welfare will be protected.

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*Leachate Collection*

- 2.1 The Owner/Operator shall use uniformly-graded, rounded to sub-angular stone and/or pea gravel for the granular layer in the leachate collection system. The stone and/or pea gravel shall have a minimum hydraulic conductivity of 0.1 cm/sec and a uniformity coefficient of less than 4.

*Landfill Gas Generation*

- 2.2 Prior to submitting the development permit application to the IEPA for the proposed Facility, the Owner/Operator shall submit draft plans and designs relating to the landfill gas collection and control system to the City of Zion for review and approval. The City shall have up to 60 days from submittal to render its approval or denial of the proposed design. The Owner/Operator shall be responsible for reimbursing the City for any costs related to the review of the proposed design.
- 2.3 The gas collection and control system shall be operated principally for the purpose of environmental management. At no time shall the operator of the gas-powered electricity generation facility have the right or opportunity to direct the volume or characteristics of the landfill gas collected by the gas collection and control system.
- 2.4 The gas collection and control system shall be maintained so that all flares provide collective, actual destructive capacity not less than 9% greater than peak landfill gas production, measured on a daily basis. The Owner/Operator shall maintain sufficient redundant blowers or gas moving equipment so that the collection system is capable of maintaining a vacuum at each wellhead.
- 2.5 Before commencing recirculation of leachate, a gas collection and control system must be constructed in each cell where recirculation shall occur. Owner/Operator shall design the leachate recirculation system so that the leachate distribution network can also be used for gas extraction as part of the gas control and collection system.

*Stormwater Management*

- 2.6 Owner/Operator must obtain a Watershed Development Permit from the Lake County Storm Water Management Commission prior to commencing construction of all or any part of the proposed Facility expansion and remain in compliance therewith during all periods of construction.

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*Construction Quality Assurance Program*

- 2.7 The Owner/Operator shall report to the City the name and qualifications of each Construction Quality Assurance Officer.
- 2.8 Owner/Operator shall report to the City anytime there is a change to the Best's rating assigned to the surety which has issued the performance bond required by the City's Siting Ordinance.

*Operating Plan*

- 2.9 Owner/Operator shall be permitted to accept waste during the following hours: Monday through Friday, 06:00 to 16:30, and 06:00 to 13:00 on Saturday; Closed Sundays and Federal holidays; and shall be permitted to conduct operations at the Facility until not later than 20:00 on a daily basis, except on Sundays and Federal holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day). Weekday hours shall be allowed on Saturdays following a week during which there is a Federal holiday and, with the consent of the City, in the event of emergencies.
- 2.10 Owner/Operator shall respond to any complainant within three (3) business days. Such response shall include, to the extent practicable, the identity of the complainant, the complainant's address and the nature of the complaint.
- 2.11 Owner/Operator shall, within 90 days following the City of Zion granting siting approval for the Facility, in consultation with the Lake County Health Department, Environmental Services Division, implement a comprehensive complaint monitoring system which shall include: (a) nature of the complaint, (b) location and identity of complainant, if possible, (c) weather conditions, and (d) a response of what was done. The reports produced by the complaint monitoring system shall be evaluated no less frequently than semi-annually for the purpose of identifying patterns in the nature of complaints and corrective actions designed to proactively prevent complaints of such nature, if any patterns exist. This system shall be incorporated into the facility's operating record and shall be made available upon request to the IEPA, the Lake County Health Department, Environmental Health Services Division, and the City of Zion.
- 2.12 Upon receipt of three (3) or more independent and confirmed odor complaints, measured during any seven (7) consecutive day period, Owner/Operator shall perform, in no greater than three (3) business days following the triggering of this condition, a root cause analysis to determine the origin of the odor, and shall begin, in no greater than six (6) working days following the triggering of

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this condition, to develop a corrective action plan corresponding to the findings of the root cause analysis, and thereafter diligently pursue performance thereof. A report describing the triggering of this condition, the root cause analysis and all corrective action plans corresponding thereto shall be filed with the City Clerk within twenty-one (21) days.

- 2.13 The Owner/Operator shall operate an odor mitigation misting system which Owner/Operator reasonably determines to be the most effective means to neutralize the odors resulting from the operation of the Facility, regardless of whether such odors result from deficiencies in the daily cover or the collection and control of landfill gas.
- 2.14 Owner/Operator shall remove, to the extent practicable, impermeable alternate daily cover before placement of new waste.
- 2.15 Owner/Operator shall not allow the use of any form of alternative daily cover which contains more than a de minimis amount of gypsum, and shall immediately implement operating protocols to implement this restriction upon the receipt of siting approval from the City of Zion.
- 2.16 Owner/Operator's operations and maintenance plan shall include a provision to ensure that all storm water and drainage layer outlets remain clear and permit the free flow of drainage at all times.
- 2.17 Owner/Operator shall review the species of birds most commonly found on and around the existing Facility and, based on the findings of such review, design reasonable bird mitigation measures corresponding to the unique characteristics of such species of bird.
- 2.18 The Owner/Operator shall employ effective measures to prevent litter from migrating off the Facility premises and shall mitigate any such litter that migrates off the Facility premises.
- 2.19 The City shall have the right to approve, which approval shall not be unreasonably withheld or delayed, any substitution of the General Manager to ensure any nominee for such position possesses such degree of skill, experience and familiarity with the Facility so that the Facility is operated in a manner to protect the health, safety and welfare of the public.
- 2.20 Owner/Operator shall implement and enforce a speed limit for all trucks operating within the Facility boundaries of not greater than twenty-five miles per hour (25 mph).



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- 2.21 Owner/Operator shall host an annual informational meeting open to the public during which it will present a summary of the operating experience for the previous year and its plans for the forthcoming year.

*Groundwater Monitoring*

- 2.22 The Owner/Operator shall respond as appropriate when ground water samples from monitoring wells owned in whole or in part by the Owner/Operator contain contaminants indicative of a release from any and all portions of the waste deposited within the Facility boundaries.

***Criterion 3. the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;***

The statute takes, as a given, that a pollution control facility is incompatible with the character of the surrounding area and that it will have a negative impact on the value of the surrounding property. The inquiry is whether the location is such as to minimize those deleterious effects. Accordingly, the part of Mr. DeClark's report and his corresponding testimony, as well as that of Mr. Lannert that there was no incompatibility and that there would be no negative effect on surrounding property values is not credible.

The application does, however, make the point (through the testimony of Mr. Lannert) that the landscape plan and design results in the applicant buffering itself by constructing screening on its own property and thereby taking steps to minimize incompatibility. Together with the operational measures described above, the "buffering and screening" approach of the applicant could be sufficient provided the applicant commits to maintain these features. Accordingly, we are recommending the following as conditions of approval under this Criterion:

- 3.1 Owner/Operator shall construct the storm water management facilities, landscape screening and the berm on the East side of the Facility at the earliest practicable and lawful time and, at a minimum, concurrent with the construction of the first new cell in the lateral expansion of the Facility.
- 3.2 The Owner/Operator shall replace, with the plant and/or tree species which are reasonably expected to have a likelihood of sustainability, all landscaping planted by the Owner/Operator for the purpose of screening the Facility that dies or shows a reasonable probability of dying.

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**Criterion 4.** *(A) For a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed.*

It was not controverted that the facility meets this criterion.

**Criterion 5.** *the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents*

It was not controverted that the facility meets this criterion.

**Criterion 6.** *the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;*

- 6.1 Owner/Operator shall cooperate with Illinois Department of Transportation, Lake County Department of Transportation, and City of Zion to design and implement an access contingency plan for the current entrance at any time when Green Bay Road, between Ninth Avenue and Russell Road, is under construction.

**Criterion 7.** *if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;*

- 7.1 Owner/Operator shall not accept any waste which may be characterized as hazardous waste.

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**Criterion 8.** *If the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility must be consistent with that plan;*

It was not controverted that the facility meets this criterion.

**Criterion 9.** *if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.*

It was not controverted that the facility meets this criterion.

In conclusion, we recommend that the City of Zion take each Criterion in order, consider and adopt the proposed conditions for each, and then vote as to whether, with the conditions, the Criterion has been satisfied.

**CITY OF ZION  
LAKE COUNTY, ILLINOIS**

ON THE MATTER OF THE APPLICATION )  
OF VEOLIA ES ZION LANDFILL, INC. FOR )  
LOCAL SITING APPROVAL TO EXPAND THE )  
CURRENTLY OPERATING VEOLIA ES ZION )  
LANDFILL IN ACCORDANCE WITH SECTION )  
39.2 OF THE ILLINOIS ENVIRONMENTAL )  
PROTECTION ACT AND THE CITY OF ZION )  
POLLUTION CONTROL FACILITY SITING )  
ORDINANCE )

**FINDINGS OF FACT AND  
CONCLUSIONS OF THE CITY OF ZION**

**INTRODUCTION**

1. On February 8, 2010, Veolia ES Zion Landfill, Inc. ("Veolia") filed its Application for Siting Approval for the Veolia ES Zion Landfill Site 2 East Expansion ("Application") with the City of Zion, Illinois ("City"). An original, 2 paper, and 40 electronic copies were filed. The Application consists of seven (7) volumes, containing the Table of Contents, Executive Summary, Siting Ordinance Summary Table, Sections 1 through Section 10, reduced Geologic Drawings Nos. G1 through G28, reduced Design Drawings Nos. D1 through D22, and Appendices A through W. Additionally, full size (30" x 42") drawings of the Geologic and Design Drawings were provided as part of the Application. The electronic copies were not separated by volumes. Ex. 1.
2. Veolia seeks to expand an existing pollution control facility that is operated as a sanitary landfill (the "Pollution Control Facility") both horizontally, east onto approximately 26.47 acres adjoining the existing Pollution Control Facility, and vertically, above approximately 53.75 acres of the existing Pollution Control Facility, resulting in a waste footprint of approximately 80.22 acres. Ex. 1.
3. The property that constitutes the proposed Pollution Control Facility contains 317.9 acres, more or less. Ex. 1.
4. Veolia is the owner and operator of the existing Site 2 Waste Disposal Unit that it intends to expand. Ex. 1.
5. At least 14 days prior to filing the Application, Veolia served written notice of its intent to file the Application ("Filing Notice") in person and/or by registered mail, return receipt requested, on the owners of all property within the subject area not

solely owned by Veolia and on the owners of all property within 250 feet in each direction of the lot line of the Subject Property, excluding roads, said owners being such persons or entities which appear from the authentic tax records of Lake County. Veolia further served the Filing Notice in person and/or by registered mail, return receipt requested, at least 14 days prior to filing the Application, on the members of the General Assembly from the legislative district in which the Proposed Facility is located. Veolia further caused the Filing Notice to be published in two newspapers of general circulation published in Lake County News-Sun and Zion-Benton News. Ex. 2-7.

6. The Filing Notice was served and published within the prescribed time period in accordance with the requirements of Section 39.2(b) of the Illinois Environmental Protection Act ("Act") and Section 31-2 of City of Zion Ordinance No. 08-0-21, entitled An Ordinance Establishing Pollution Control Facility Siting Standards and Procedure ("Ordinance").
7. The Application contains all the information required by Section 39.2(c) of the Act and Section 31-3 of the Ordinance.
8. Veolia paid the required \$250,000 application fee to the City, pursuant to Section 31-3(C)(12) of the Ordinance on May 8, 2010.
9. Prior to commencement of the public hearing, Veolia caused notice of the public hearing on its Application ("Public Hearing Notice") to be served by certified mail, return receipt requested, on the members of the General Assembly from the legislative district in which the Proposed Facility is located, the Illinois Environmental Protection Agency ("IEPA"), the City of Zion City Counsel, the governing authority of each municipality contiguous to the Proposed Facility or contiguous to the City of Zion and the governing authority of each municipality and township within 1½ miles of the Proposed Facility. Veolia caused the Public Hearing Notice to be published in two newspapers of general circulation published in the City of Zion or Lake County on January 12 and January 21, 2010. Ex. 8-12.
10. The Public Hearing Notice was served and published within the prescribed time periods in accordance with the requirements of Section 39.2(d) of the Act and Section 31-6 of the Ordinance.
11. The public hearings on the Application were held on May 12, May 13, May 17, and May 25, 2010.
12. Veolia did not file an amendment to the Application.
13. No request for local siting approval of the Proposed Facility, which is substantially the same as a request that was disapproved under any of the criteria of Section 39.2(a) of the Act, has been filed within the preceding two years.

14. Members of the general public were permitted at the public hearings to present testimony, evidence and witnesses, to cross-examine witnesses and to make statements under oath.
15. The City retained Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C. ("Ancel Glink") and certain technical consultants to perform a technical review of the Application. Based on their review of the Application, Ancel Glink, on behalf of itself and the technical consultants, concluded that the Application met the requirements of Section 39.2 of the Act and the Ordinance, subject to conditions that would be recommended by Ancel Glink. Tr. 552.9-24.

**Criterion I: The facility is necessary to accommodate the waste needs of the area it is intended to serve.**

1. The proposed service area for the Facility is Kenosha County, Lake County, Cook County, and townships in eastern McHenry County. Ex. 1. Tr. 36.4-8.
2. The Veolia ES Zion Landfill has approximately four years of remaining capacity, as of January 1, 2010. Ex. 1. Tr. 39.10-12.
3. The service area landfills have approximately six years of remaining capacity, as of January 1, 2010. Ex. 1. Tr. 39.14-17.
4. There is a significant shortfall predicted in the waste disposal capacity within the service area during the life of the proposed Site 2 East Expansion, of which less than ten percent will be addressed by the proposed Site 2 East Expansion. Ex. 1. Tr. 41.10-12, 18-22.
5. Lake County has no transfer stations, making the use of landfills outside of Lake County economically unfeasible. Ex. 1. Tr. 55.20; 56.1.
6. The service area was selected based on the historic wasteshed for the existing facility. Ex. 1. Tr. 36.9-10.
7. Landfilling is the primary means of managing waste from the service area. Ex. 1. Tr. 38.10-12.
8. The Lake County Solid Waste Plan recommends that the County secure an additional disposal capacity to meet 20 year disposal needs. Ex. 1. Tr. 39.19-22.
9. The proposed Site 2 East Expansion will encourage economic growth in the service area. Ex. 1. Tr. 46.15-17.

10. At the hearing on May 12, 2010, Philip Kowalski, of Shaw Environmental, Inc., testified regarding the Site 2 East Expansion. Mr. Kowalski is an expert in the analysis of need pertaining to landfills.
11. In his testimony at the hearing, Mr. Kowalski rendered an expert opinion that the proposed Site 2 East Expansion is necessary to accommodate the waste needs of the area it is intended to serve. Ex. 1. Tr. 46.21-2.

**Criterion 2: The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.**

1. The proposed Veolia ES Zion Landfill Site 2 East Expansion meets or exceeds all minimum setbacks established in local, state, and federal regulations. Ex. 1. Tr. 395.21 through 396.16; Ex. 22.8-13.
2. The nearest airport to the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site is approximately 3.5 miles away, exceeding airport setback requirements. Ex. 1. Tr. 395.21-22; Ex. 22.8.
3. The Facility is not located within the 100-Year floodplain, as defined by the Federal Emergency Management Agency (FEMA). Ex. 1. Tr. 395.24 through 396.1; Ex. 22.8.
4. There are no wetlands under the U.S. Army Corps of Engineers' jurisdiction or Waters of the U.S. located within the Facility. Ex. 1. Tr. 396.2-4; Ex. 22.9.
5. There is an isolated wetland, classified as an Isolated Waters of Lake County by the Lake County Watershed Development Ordinance, located on the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site. The filling of this Isolated Waters of Lake County will be offset through the purchase of wetland mitigation bank credits by Veolia E.S. Zion Landfill, Inc., as approved by the Lake County Stormwater Management Commission. Ex. 1. Tr. 396.4-6; Ex. 22.9.
6. No known seismic faults exist within two hundred (200) feet of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site. Ex. 1. Ex. 22.10.
7. There are no documented seismically unstable areas located beneath the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site. Ex. 1. Ex. 22.10.
8. The proposed Veolia E.S. Zion Landfill Site 2 East Expansion site is not located within a seismic impact zone. Ex. 1. Ex. 22.10.
9. There are no rivers designated for protection under the Wild and Scenic Rivers Act within the proposed Veolia E.S. Zion Landfill Site 2 East Expansion area. Ex. 1. Ex. 22.11.

10. There are no significant historical, architectural or archeological resources within the proposed Veolia E.S. Zion Landfill Site 2 East Expansion area. Ex. 1, Tr. 396.7-8; Ex. 22.11.
11. The Illinois Department of Natural Resources and the Illinois Nature Preserve Commission have reviewed the proposed Veolia E.S. Zion Landfill Site 2 East Expansion, and determined that the proposed expansion will not impact any potentially endangered or threatened species. Ex. 1, Tr. 396.8-9; Ex. 22.11.
12. The development and operation of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion will not violate any area-wide or state-wide water quality management ("WQM") plan. Ex. 1, Tr. 396.10-11; Ex. 22.12.
13. There are no off-site potable water supply wells located within 200 feet of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion. Ex. 1, Tr. 396.11-12; Ex. 22.12.
14. There are no community water supply wells located within 2,500 feet of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion. Ex. 1, Tr. 396.11-12; Ex. 22.12.
15. No sole-source aquifer or regulated recharge area is located within the proposed Veolia E.S. Zion Landfill Site 2 East Expansion area. Ex. 1, Tr. 396.12; Ex. 22.12.
16. The proposed Veolia E.S. Zion Landfill Site 2 East Expansion will be located more than five hundred (500) feet from all occupied dwellings, schools, retirement homes, hospitals and similar institutions. Ex. 1, Tr. 396.14-16; Ex. 22.13.
17. The Veolia ES Zion Landfill has been designed to control, contain, and collect both leachate and landfill gas, which are potential sources of contamination from landfills. Ex. 1, Tr. 396.20 through 398.5; Ex. 22.14.
18. The proposed Veolia ES Zion Landfill Site 2 East Expansion has a composite liner system designed to exceed the requirements of the Illinois Environmental Protection Agency. Ex. 1, Tr. 401.6-8; Tr. 412.20-23.
19. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive leachate management system designed to exceed the requirements of the Illinois Environmental Protection Agency. , Ex. 1, Tr. 401.19 through 402.10; Tr. 403.5 through 405.20; Ex. 22.16-20; Ex. 22.29.
20. The composite liner system and leachate collection layer designed for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion includes a 6 oz./yd.<sup>2</sup> non-woven geotextile, a leachate drainage layer of twelve (12) inches or more (k



$\geq 1 \times 10^{-3}$  cm/sec.), a 60-mil HDPE geomembrane liner, and a recompacted low-permeability ( $k \leq 1 \times 10^{-7}$  cm/sec.) cohesive soil liner of five (5) feet or more. Ex. 1. Tr. 401.6 through 402-4; Ex. 22.16.

21. The design of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion is such that leachate will collect in sumps to facilitate removal by pumps. Ex. 1. Tr. 402.5-10.
22. The drainage material for the leachate collection layer has been shown to perform effectively with a hydraulic conductivity of  $1 \times 10^{-3}$  cm/sec. Ex. 1. Tr. 476.13-18; Ex 22.18.
23. The composite liner system and leachate collection system installation will be overseen and documented by a Professional Engineer licensed in the State of Illinois. Ex. 1. Tr. 424.13-19.
24. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive final cover system. Ex. 1. Tr. 413.10 through 414.20; Ex. 22.31.
25. The final cover system for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion will include a 1-foot intermediate cover general soil layer, 2-foot thick low-permeability ( $k \leq 1 \times 10^{-6}$  cm/sec.) compacted cohesive soil layer, a 40-mil LLDPE geomembrane, a geocomposite drainage net, a minimum of three (3) feet of protective soil, and a layer of vegetation. Ex. 1. Tr. 413.10 through 414.20; Ex. 22.31.
26. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a proposed landfill gas collection system. Ex. 1. Tr. 416.19 through 419.10; Ex. 22.34-39.
27. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a proposed landfill gas monitoring system including 34 below-ground gas detection probes. Ex. 1. Tr. 419.11 through 420.5; Ex. 22.40-41.
28. Recent upgrades to the landfill gas collection and control system allow the landfill to destroy up to 9,000 scfm of landfill gas through flares, which exceeds the peak landfill gas generation rate anticipated for the proposed Site 2 East Expansion, including existing landfilled areas. Ex. 1. Tr. 417.7-20.
29. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a construction phasing plan. Ex. 1. Tr. 420.12 through 422.21; Ex. 22.42.
30. Screening berm and landscaping features will be installed along Kenosha Road prior to constructing cells to the east of the existing permitted waste footprint. Ex. 1. Tr. 421.22 through 422.2; Ex. 22.67.

31. Cells and portions of cells of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion will be closed as each cell or portion thereof reaches capacity. Ex. 1. Tr. 420.12-21; Ex. 22.42-48.
32. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive Construction Quality Assurance (CQA) Plan. Ex. 1. Tr. 424.9-19; Ex. 22.51.
33. 100% of the welds of the 60-mil HDPE geomembrane liner in the proposed Veolia E.S. Zion Landfill Site 2 East Expansion will be tested. Ex. 1. Tr. 424.9 through 425.4; Ex. 22.51.
34. The CQA Plan calls for certification of the construction of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion by a third-party professional engineer, licensed in Illinois. Ex. 1. Tr. 424.9-19; Ex. 22.51.
35. The CQA Plan ensures that the geological conditions at the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site are as anticipated, that the proposed Veolia E.S. Zion Landfill Site 2 East Expansion is constructed per the design, and that the materials used in the construction meet design specifications. Ex. 1. Tr. 424.9-19; Tr. 406.5 through 407.12; Ex. 22.51.
36. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive stormwater management program designed to exceed state requirements and requirements specified in the Lake County Watershed Development Ordinance. Ex. 1. Tr. 426.14 through 427.12; Ex. 22.54.
37. Veolia E.S. Zion Landfill, Inc. has been designed to meet all technical requirements of the Lake County Watershed Development Ordinance. Ex. 1. Tr. 427.10-22; Ex. 22.54.
38. Veolia will secure a written statement from the Lake County Stormwater Management Commission that all technical requirements of the Lake County Watershed Development Ordinance have been met prior to commencement of construction of the proposed Veolia ES Zion Landfill Site 2 East Expansion. Ex. 1. Tr. 427.13-22.
39. The Site 2 East Expansion will recirculate leachate in a manner consistent with the leachate recirculation program that has been reviewed and approved by the IEPA for the existing facility. Ex. 1. Tr. 450.9-16.
40. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive closure program. Ex. 1. Ex. 22.70.

41. The design for the proposed Veolia E.S. Zion Landfill Site 2 East Expansion has a comprehensive post-closure care program. Ex. 1. Tr. 436.17 through 437.16; Ex. 22.70
42. The Illinois State Geological Survey classifies the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site as exhibiting a low potential for contamination of shallow aquifers from land burial of municipal wastes due to the thickness of clay-rich soils above the uppermost aquifer and the primary regional drinking water sources. Ex. 1. Tr. 366.17-23; Ex. 21.9.
43. There will be an average of 32 feet of non-water bearing clay rich glacial till of the Wadsworth Formation present across the proposed site which will separate the footprint of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site from the uppermost aquifer. Ex. 1. Tr. 372.18-22; Ex.21.20.
44. The hydraulic conductivity of the cohesive soil beneath the proposed Veolia E.S. Zion Landfill Site 2 East Expansion area is lower than the hydraulic conductivity required by the Illinois Environmental Protection Agency for a compacted clay landfill liner. Ex. 1. Tr. 372.10-22; Ex. 21.20.
45. The geologic and hydrogeologic conditions of the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site have been studied extensively and are well understood. Ex. 1. Tr. 367.2-12; Tr. 373.18-23; Ex. 21.23.
46. A groundwater model for the proposed expansion exceeded the compliance standards set by the Illinois Environmental Protection Agency indicating that the proposed expansion area is a good site for a landfill. Ex. 1. Tr. 375.5-10; Ex. 21.26.
47. The hydrogeologic conditions at the proposed Veolia E.S. Zion Landfill Site 2 East Expansion site are such that a comprehensive groundwater monitoring system can be developed and implemented, as is proposed in the application. Ex. 1. Tr. 374.3-9; Ex. 21.27.
48. At the hearing on May 17, 2010, Devin A. Moose, PE, DEE, of Shaw Environmental, Inc., testified regarding the Veolia E.S. Zion Landfill Site 2 East Expansion. Mr. Moose is an expert in the field of environmental engineering and design pertaining to landfills.
49. In his testimony at the hearing, Mr. Moose rendered an expert opinion that the proposed Veolia E.S. Zion Landfill Site 2 East Expansion is so designed, located and proposed to be operated that the public health, safety and welfare will be protected from an engineering and operating standpoint. Ex. 1. Tr. 437.17-23; Ex. 22.71.

50. At the hearing on May 17, 2010, Daniel J. Drommerhausen, P.G., of Shaw Environmental, Inc., testified regarding the Veolia E.S. Zion Landfill Site 2 East Expansion. Mr. Drommerhausen is an expert geologist and hydrogeologist. In his testimony at the hearing, Mr. Drommerhausen rendered an expert opinion that the proposed Veolia E.S. Zion Landfill Site 2 East Expansion is so designed, located and proposed to be operated that the public health, safety and welfare will be protected from a geologic and hydrogeologic standpoint. Tr. 376.17-24.

**Criterion 3: The facility is so located as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.**

1. The character of the area surrounding the proposed Site 2 East Expansion is largely agricultural, industrial, and residential. Ex. 1. Ex. 15.18.
2. 59% of the land within one (1) mile of the proposed Site 2 East Expansion is used for agriculture or open space. Ex. 1. Tr. 142.11-2
3. 24% of the land within one (1) mile of the proposed Site 2 East Expansion is residential. Ex. 1. Tr. 142.17-18
4. 14% of the land within one (1) mile of the proposed Site 2 East Expansion is used for industrial use and utilities. Ex. 1. Tr. 142.13-15
5. 2% of the land within one (1) mile of the proposed Site 2 East Expansion is used for commercial use. Ex. 1. Ex. 15.18.
6. 1% of the land within one (1) mile of the proposed Site 2 East Expansion is used for industrial use. Ex. 1. Ex. 15.18.
7. The proposed Landscape Plan for the Site 2 East Expansion provides increased setbacks, buffers, benning and landscaping improvements adjacent to Kenosha Road in areas where vegetation will be removed. Ex. 1. Ex. 15.20.
8. Estimated 2008 average income, estimated median income, and per capita income were greater within the one mile area surrounding the landfill than within the three and five mile study areas surrounding the landfill. Ex. 1. Tr. 200.9-12; 2002.5-9.
9. Population growth during the years the existing landfill has been in operation within one mile of the facility is greater than growth within the three and five mile study areas, indicating a willingness to live proximate to the existing landfill. Ex. 1. Tr. 200.17-23.

10. Recent nearby retail developments along Route 173 indicate retail development has not been negatively impacted by the existing Facility. Ex. 1. Tr. 202.16-19.
11. The municipal and county land use plans and zoning areas denote this area for future industrial growth, indicating a desire for compatible industrial properties near the landfill. Ex. 1. Tr. 203.11-16.
12. The majority of residential properties in the surrounding subdivisions were developed after the landfill began operations in 1976. Ex. 1. Tr. 203.18-21.
13. Occupancy and sales patterns in the area have steadily increased since the landfill began operations. Ex. 1. Tr. 203.21-24.
14. New construction has occurred since 2000 in two subdivisions to the south of the landfill, Country Wood Hills and Bright Ponds. Ex. 1. Tr. 204.1-4.
15. The annual appreciation rate of residential properties near the Veolia ES Zion Landfill is approximately 4.21%. Ex. 1. Tr. 204.5-9.
16. The annual appreciation rate of residential properties in the City of Zion is approximately 3.97%. Ex. 1. Tr. 205.23.
17. The annual appreciation rate of residential properties in the Village of Winthrop Harbor is 4.26%. Ex. 1. Tr. 205.24.
18. Proximity of the landfill does not negatively impact the annual appreciation rate of the sale prices of homes when compared to the City of Zion or the Village of Winthrop Harbor. Ex. 1. Tr. 204.16-21.
19. The landfill operations have not had a measurable negative impact on nearby residential properties. Ex. 1. Tr. 207.9-12.
20. At the hearing on May 12, 2010, J. Christopher Lannert, R.L.A., of the Lannert Group, testified regarding the Site 2 East Expansion. Mr. Lannert is an expert in the field of land planning and landscape architecture.
21. In his testimony at the hearing, Mr. Lannert rendered an expert opinion that the proposed Site 2 East Expansion is so located as to minimize incompatibility with the character of the surrounding area. Ex. 1. Tr.18-21.
22. At the hearing on May 13, Gary DeClark of Integra Realty Resources, Inc., testified regarding the Veolia ES Zion Site 2 East Expansion. Mr. DeClark is an expert in the field of real estate appraisal.
23. In his testimony at the hearing, Mr. DeClark rendered an expert opinion that a target study comparison was not completed because adjacent subdivisions were

constructed too recently and due to a lack of sales in the area. Ex. 1. Tr. 247.14-205.10.

24. In his testimony at the hearing, Mr. DeClark rendered an expert opinion that appreciation of residential home sale prices is the appropriate indicator to use to determine the impact on real estate values because it accounts for all other influences on resale prices. Ex. 1. Tr.252.21-253.5.
25. In his report submitted with the application, Mr. DeClark rendered an expert opinion that the proposed Site 2 East Expansion is so located as to minimize the effect on the value of the surrounding area. Ex. 1. Tr. 207.17-19.

**Criterion 4: The facility is located outside the boundary of the 100-year floodplain.**

1. No portion of the proposed Site 2 East Expansion Facility is located within the three-dimensional boundary of the 100-year floodplain established by FEMA's Flood Insurance Rate Maps. Ex. 1. Tr. 395.24-396.1.
2. At the hearing on May 17, 2010 Devin A. Moose, PE, DEE, of Shaw Environmental, Inc., testified regarding the Site 2 East Expansion. Mr. Moose is an expert in the field of environmental engineering pertaining to landfills.
3. In his testimony at the hearing, Mr. Moose rendered an expert opinion that the proposed Site 2 East Expansion Facility is located outside the 100-year FEMA floodplain.

**Criterion 5: The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.**

1. Veolia ES Zion Landfill, Inc. has multiple health and safety plans implemented at the current facility that will continue for the proposed Site 2 East Expansion. Ex. 1. Tr. 435.21 through 436.16 Ex. 22.68-69.
2. Veolia ES Zion Landfill, Inc. has monitored and will continue to monitor landfill gas at Site 2 and the proposed Site 2 East Expansion. Ex. 1. Tr. Ex. 22.40-41.
3. Veolia ES Zion Landfill, Inc. has implemented and will continue to implement a load checking program at Site 2 and the proposed Site 2 East Expansion. Ex. 1. Tr. 430.2 through 432.9; Tr. 436.7-8; Ex. 22.62.
4. Veolia ES Zion Landfill, Inc. has employed and will continue to employ secondary containment of leachate and routine inspections of leachate containment and removal systems at Site 2 and the proposed Site 2 East Expansion, in order to minimize the danger of spills at the facility. Ex. 1. Tr. 436.1-16; Ex. 22.17-20.

5. Veolia ES Zion Landfill, Inc. has implemented and will continue to implement a comprehensive operating plan at Site 2 and the proposed Site 2 East Expansion, in order to minimize the danger of fire, spills and other operational accidents at the facility. Ex. 1. Tr. 436.1-16; Ex. 22.68-69.
6. Veolia ES Zion Landfill, Inc. has implemented and will continue to implement a comprehensive Emergency Preparedness Plan at Site 2 and the proposed Site 2 East Expansion, in order to minimize the danger of fire, spills and other operational accidents at the facility. Ex. 1. Tr. 436.1-16; Ex. 22.68-69.
7. Veolia ES Zion Landfill, Inc. has trained and will continue to train all employees at Site 2 and the proposed Site 2 East Expansion whose responsibilities include active involvement in load checking or waste disposal activities to recognize and mitigate hazardous conditions in accordance with Veolia ES Zion Landfill, Inc.'s operational plans, and in order to minimize the danger of fire, spills and other operational accidents at the facility. Ex. 1. Tr. 436.1-16; Ex. 22.68.
8. Veolia ES Zion Landfill, Inc. has coordinated and will continue to coordinate with local governmental units, including the City of Zion Fire Protection District, in order to minimize the danger of fire, spills and other operational accidents at Site 2 and the proposed Site 2 East Expansion. Ex. 1. Tr. 436.1-16; Ex. 22.69.
9. At the hearing on May 17, 2010, Devin Moose, of Shaw Environmental, Inc., testified regarding the Site 2 East Expansion. Mr. Moose is an expert in the field of landfill operations.
10. In his testimony at the hearing, Mr. Moose rendered an expert opinion that the proposed plan of operations for the Site 2 East Expansion is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents. Ex. 1. Tr. 438.2-5.

**Criterion 6: The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flow.**

1. The existing landfill entrance on Green Bay Road will continue to be used as the main entrance to the Veolia ES Zion Landfill. Ex. 1. Tr. 83.2-5; 73.13-15
2. The existing secondary landfill entrance on Ninth Street will continue to be used as a secondary landfill entrance for employee use only. Ex. 1. Tr. 83.24; 84.1-2
3. The proposed routes to and from the facility are the same as the existing routes. Ex. 1. Tr. 76.6-10

4. Primary access to the Facility will be provided by two arterial roadways. Green Bay Road and Illinois State Route 173. Both roads are classified as truck routes. Ex. 1. Tr. 72.21-24; 73.1-5; 76.6-10,13-15
5. The expansion will serve as an extension of current operating conditions. The expanded facility will continue with a similar volume of traffic and vehicle types as the existing facility. Ex. 1. 77.20-24; 78.1-2; 79.15-20
6. The volume of traffic generated by the existing landfill and proposed expansion represents a small portion of the existing traffic on the roadway system. Ex. 1. Tr. 82.22-24; 83.1; 84.22-24; 85.1-3
7. Sufficient traffic gaps are available at the main entrance to the facility for the proposed expansion. Ex. 1. Tr. 90.24; 91.1-2; 97.18-21
8. The roadway network that will serve the proposed expansion has ample capacity to safely and efficiently accommodate traffic to and from the proposed expansion. Ex. 1. Tr. 84.4-6.
9. The proposed expansion will have minimal impact to the roadway system. Ex. 1. Tr. 80.1-4; 82.9-13. 16-22.
10. At the hearing on May 12, 2010, Michael Werthmann, P.E., PTOE, of Kenig, Lindgren, O'Hara, Aboona, Inc (KLOA), testified regarding the Veolia ES Zion Landfill Site 2 East Expansion. Ex. 1. Tr. 69.16-19. Mr. Werthmann is an expert in the field of traffic engineering. Ex. 1. Tr. 70.6-20.
11. Mr. Werthmann's testimony at the hearing was credible.
12. Other than Mr. Werthmann, no other expert witness provided testimony as to whether the traffic patterns to and from the Site 2 East Expansion are so designed as to minimize the impact on existing traffic flow.
13. Mr. Werthmann submitted a report with the application for the proposed Site 2 East Expansion.
14. In his report submitted with the application, Mr. Werthmann rendered an expert opinion that, the traffic patterns to and from the proposed Site 2 East Expansion are so designed as to minimize the impact on existing traffic flow. Ex. 1. Tr. 84.22-24; 85.1-12
15. Mr. Werthmann's expert opinion, rendered at the hearing, is that there are sufficient gaps for vehicles to safely exit the facility in both north and south directions. Ex. 1. Tr. 97.18-21



16. Mr. Werthmann's expert opinion, rendered at the hearing, is that the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flow. Ex. 1. Tr.85.7-12.

**Criterion 7: If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan for the facility will be developed to include notification, containment and evacuation procedures to be used in case of an accidental release.**

1. Veolia ES Zion Landfill, Inc. and the proposed Site 2 East Expansion are not and will not be permitted to accept hazardous waste. Ex. 1. Tr. 438.5-7; Ex. 22.60.
2. Veolia ES Zion Landfill, Inc. has implemented and will continue to implement a waste acceptance program at Site 2 and the proposed Site 2 East Expansion reasonably calculated to limit the opportunity for customers to dispose of unauthorized wastes at the facility. Ex. 1. Tr. 430.2 through 432.9; Ex. 22.62.
3. Veolia ES Zion Landfill, Inc. has implemented and will continue to implement site access controls at the facility, reasonably calculated to limit the opportunity for unauthorized dumping at the facility. Ex. 1. Ex. 22.58.
4. At the hearing on May 17, 2010, Mr. Moose, of Shaw Environmental, Inc., testified regarding the Veolia ES Zion Landfill Site 2 East Expansion. Mr. Moose is an expert in the field of landfill operations.
5. In his testimony at the hearing, Mr. Moose rendered an expert opinion that the proposed operations, as expanded, would reasonably prevent hazardous waste from being disposed of at the facility. Ex. 1. Tr. 429.13-20; Tr. 430.2 through 432.9; Tr. 438.5-7; Ex. 22.6.
6. Because the Site 2 East Expansion will not be treating, storing or disposing of hazardous waste, siting criterion 7 does not apply.

**Criterion 8: If the facility is to be located in a county where the county has adopted a solid waste management plan, the facility is consistent with the plan.**

1. All counties in Illinois are required to develop 20-year solid waste management plans. Ex. 1. Tr. 47.12-13
2. The original plan for Lake County was adopted in April, 1989 and has updated it every five years since: 1994, 1999, 2004, and 2009. Ex. 1. Tr. 47.13; 48.7
3. The 2004 update was in effect when Veolia filed the Site 2 East Expansion siting application. Therefore, the 2004 update is applicable to the siting application. Ex. 1. Tr. 48.6-7

4. The 2004 plan update calls for all waste which is not diverted through recycling or landscape waste composting to be landfilled. Ex. 1. Tr. 48.12-13.
5. Landfilling is the preferred disposal alternative identified in the County's 2004 plan. Ex. 1. Tr. 48.15-18
6. The 2004 plan update also recommends that existing disposal agreements with privately-owned landfills, including the Veolia ES Zion Landfill, be maintained. Ex. 1. Tr. 48.19-23
7. Veolia ES Zion Landfill entered into a new host agreement with Lake County and the Solid Waste Agency of Lake County, which provides additional guaranteed disposal capacity to this county if the Site 2 East Expansion is approved. Ex. 1. Tr. 49.7-12
8. The 2004 plan update recommended that the County secure additional landfill capacity to meet its needs for the 20-years. Ex. 1. Tr. 49.17-20
9. The proposed expansion will provide additional capacity located in Lake County to help the county fulfill a portion of its needs for the 20-year period. Ex. 1. 49.20; 50.1
10. The 2009 amendment to the 2004 plan update specified that host agreements must be signed between Lake County, SWALCO, and the applicant. Ex. 1. Tr. 50.2-6
11. Veolia ES Zion Landfill has entered into host agreements with Lake County, SWALCO, the City of Zion, the Village of Winthrop Harbor, and the Zion Park District. Ex. 1. Tr. 50.6-10
12. The 2010 host agreement between Lake County, SWALCO, and Veolia ES Zion Landfill, Inc. indicates that both Lake County and SWALCO find the proposed expansion to be currently consistent with the County's plan. Ex. 1. Tr. 50.13-20
13. At the hearing on May 12, 2010 Philip Kowalski, of Shaw Environmental, Inc., testified regarding the Veolia ES Zion Landfill Site 2 East Expansion. Mr. Kowalski is an expert in the analysis of solid waste management plans.
14. In his testimony at the hearing, Mr. Kowalski rendered an expert opinion that the proposed Site 2 East Expansion is consistent with the Lake County Solid Waste Management Plan. Ex. 1. Tr. 51.6-9.

**Criterion 9: If the facility will be located within a regulated recharge area, any applicable requirements specified by the Pollution Control Board for such areas have been met.**

1. There is only one regulated recharge area established by state rulemaking in the State of Illinois, which regulated recharge area is located in Peoria County. Thus, the facility is not located within a regulatory recharge area.
2. At the hearing on May 17, 2010, Devin A. Moose, PE, DEE, of Shaw Environmental, Inc., testified regarding the Site 2 East Expansion. Mr. Moose is an expert in the field of environmental engineering pertaining to landfills.
3. In his testimony at the hearing, Mr. Moose rendered an expert opinion that the proposed Veolia ES Zion Landfill Site 2 East Expansion is not located within a regulated recharge area. Ex. 1, Tr. 438.7-9; Ex. 22.12.

#### **Operating History (Unnumbered Criterion)**

1. Veolia picks up blowing litter from within the landfill and on neighboring streets and properties. Ex. 1, Tr. 269.21 through 270.10.
2. Veolia completes random waste load inspections to minimize the potential for unauthorized waste being deposited at the facility. Ex. 1, Tr. 272.11 through 272.22.
3. Veolia performs daily cover inspections to ensure that cover has been placed. Ex. 1, Tr. 272.23 through 273.3.
4. Veolia performs safety inspections to deter unsafe acts at the landfill. Ex. 1, Tr. 273.4-10.
5. Veolia performs routine integrity inspections on liquid tanks, including, but not limited to, gas and leachate tanks. Ex. 1, Tr. 273.11-17.
6. Veolia performs dust inspections to minimize fugitive dust emissions. Ex. 1, Tr. 273.18 through 274.1.
7. All construction is certified by a third party professional engineer. Ex. 1, Tr. 274.17 through 275.1.
8. The Veolia ES Zion Landfill is audited by the Solid Waste Agency of Lake County. Ex. 1, Tr. 275.10-17.
9. The Lake County Health Department has been delegated the authority by the Illinois Environmental Protection Agency to inspect the facility. In a typical month, two or three unannounced inspections will be completed to verify that the Facility is operating in accordance with its permit. Ex. 1, Tr. 275.18 through 276.2.

10. The Illinois Environmental Protection Agency Bureaus of Air, Land, and Water also send inspectors to the landfill to confirm that the facility is operating according to its permits. Ex. 1. Tr. 276.3-7.
11. Regulatory inspectors may issue noncompliance advisory letters or a notice of violation in the event that Veolia is not operating in compliance with its permits. Ex. 1. Tr. 276.8-14.
12. Veolia received a notice of violation in 2006 regarding landfill odors emanating from the facility. Ex. 1. Tr. 276.14-20
13. Veolia had been investigating odor concerns prior to receipt of the 2006 notice of violation associated with odor. Ex. 1. Tr. 276.21 through 277.3.
14. Veolia completed multiple landfill gas collection system upgrades in 2007, including installing 31 additional gas extraction wells, three new blowers, a new candlestick flare, and several miles of landfill gas collection and header pipeline, as well as replacing the enclosed flare with another that provides twice the destructive capacity. Ex. 1. Tr. 277.4 through 278.6.
15. Veolia has budgeted an additional one million dollars to continue to upgrade the landfill gas collection system in 2010. Ex. 1. Tr. 278.21 through 279.4.
16. The groundwater is monitored at multiple wells either quarterly, semiannually, or annually. Ex. 1. Tr. 279.7-16.
17. Landfill gas detection probes around the landfill are used to detect the presence of landfill gas. Ex. 1. Tr. 279.17 through 280.11.
18. Surface water is monitored on a monthly and quarterly basis. Ex. 1. Tr. 280.12-14.
19. Air monitoring is completed at the facility to detect fugitive gas emissions. Ex. 1. Tr. 280.15 through 281.1.
20. Veolia maintains records of disposal tickets that state the customer name, date, and time of arrival of each waste load. Ex. 1. Tr. 281.2 through 284.14.
21. At the hearing on May 13, 2010, Jim Lewis, Site Manager for Veolia ES Zion Landfill, Inc., testified regarding the operating history of Veolia ES Zion Landfill. Mr. Lewis is an expert in the field of landfill operations. Mr. Lewis is a Certified Landfill Operator in the State of Illinois.

## Conclusions of Law

1. The Application was complete as filed and contained all the information required by Section 39.2 of the Act and the Ordinance.
2. The public notices were served and published by Veolia within the prescribed time periods and in accordance with the requirements of Section 39.2 of the Act and the Ordinance.
3. The public hearings on the Application were held by the City of Zion City Council within the prescribed time period and in accordance with the requirements of Section 39.2 of the Act and the Ordinance.
4. The City of Zion City Council has jurisdiction to approve or disapprove the Application pursuant to Section 39.2(a) of the Act and the Ordinance.
5. Veolia met its burden of proving that the nine criteria of Section 39.2(a) of the Act have been satisfied. Specifically, the Site 2 East Landfill Expansion meets each of the criteria of Section 39.2(a) of the Act in that:
  - a. the Site 2 East Landfill Expansion is necessary to accommodate the waste needs of the area it is intended to serve;
  - b. the Site 2 East Landfill Expansion is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
  - c. the Site 2 East Landfill Expansion is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
  - d. the Site 2 East Landfill Expansion is located outside the boundary of the 100-year flood plain;
  - e. the plan of operations for the Site 2 East Expansion Landfill Expansion is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
  - f. the traffic patterns to or from the Site 2 East Expansion Landfill Expansion are so designed as to minimize the impact on existing traffic flows;
  - g. Veolia will not be treating, storing or disposing of hazardous waste at the Site 2 East Expansion Landfill Expansion;
  - h. the Site 2 East Landfill Expansion is consistent with the Lake County Plan; and
  - i. the Site 2 East Landfill Expansion meets Criterion 9 because it is not located within a regulated recharge area.

NOW, THEREFORE, the City Council of the City of Zion, having heard and considered the testimony of witnesses, evidence submitted at the public hearings, the Application and other documents in the record, exhibits admitted into evidence and public comment, does hereby grant local siting approval for the Site 2 East Landfill Expansion, subject to the Conditions of Siting attached hereto.

**CITY COUNCIL OF THE CITY OF ZION, ILLINOIS**

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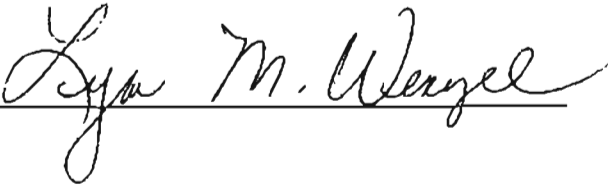
**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on September 2, 2010, I have served the attached Notice of Filing, Petition For Hearing To Contest Siting Condition and Appearance on the following persons at the following addresses by U.S. Mail, postage prepaid.

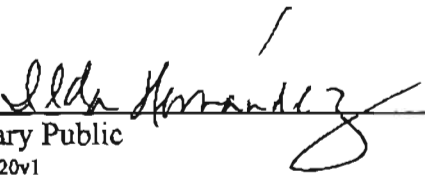
Honorable Lane Harrison  
Mayor, City of Zion  
2828 Sheridan Road  
Zion, Illinois 60099

Judy Mackey  
City Clerk, City of Zion  
2828 Sheridan Road  
Zion, Illinois 60099

Paula Randall  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer  
175 E. Hawthorn Parkway, Suite 145  
Vernon Hills, Illinois 60061

  
\_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME  
this 2nd day of September, 2010.

  
\_\_\_\_\_  
Notary Public  
2133020v1

