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### **Application for landfill expansion to be filed in days**

**Author(s):** ELENA GRIMM [egrimm@daily-chronicle.com](mailto:egrimm@daily-chronicle.com) **Date:**  
November 21, 2009 **Section:** Local

**SYCAMORE** – An application to expand the county landfill should be filed to the county by Nov. 30. That is the date Waste Management of Illinois Inc. and county officials have marked. Once filed, the application will be available to the public at the DeKalb County Clerk's Office, several municipalities including Cortland and DeKalb, and at area libraries, DeKalb County Administrator Ray Bockman said Friday.

The Pollution Control Facility Committee, an ad-hoc committee of seven county board members and eight support staff, met Friday afternoon to go over the schedule for public hearings and other routine information pertinent to the expansion process.

Public hearings will be held March 1-5, 2010, and will flow into the next week, if needed. Hearings will be held from 9 a.m.-5 p.m. each day, with an evening session scheduled for March 2.

The biggest concern voiced by committee members was choosing a right-sized venue. The Gathertorium of the County Legislative Center has been booked for the hearings.

The county already ran into the problem of not having a large-enough space once, when about 400 people showed up for a public hearing on a wind farm earlier this year in a room built for 250. The hearing was rescheduled and held in a high school gymnasium.

"It overwhelmed us," County Planning Director Paul Miller said.

Renee Cipriano, a former director of the Illinois Environmental Protection Agency who will be providing legal counsel to the county during the landfill expansion process, recommended finding a larger venue if an unexpected crowd should turn up.

But she doesn't think that will happen.

"There really isn't that core, active group that you're aware of," she said. "It really depends on if you have a municipality you know that is going to have issues, they'll try to pack the room, or a community group or environmental group."

The Gathertorium can seat about 100, with overflow space in the lobby using a PA system.



Bockman said he would look into other options.

"Plan B will be critical," said Lee Addleman, a consultant with Waste Management. "Should 300 people show up, they need to be able to hear."

Leading up to the filing date, Waste Management has notified all interested parties, including about 17 adjacent property owners, Addleman said. Patrick Engineering, the firm overseeing the project, is reviewing engineering aspects of the siting application before it's filed with the county.

After the siting application is filed and public hearings take place, the Pollution Control Facility Committee will make a recommendation to the county board, which has ultimate local authority.

Appeals to the board's decision then can occur.

After local approval, a second application process happens on the state level, where a permit needs to be granted to Waste Management to make the expansion, Bockman said. That process could take two years.

Waste Management wants to expand the DeKalb County Landfill to take in a total of 500,000 tons of solid waste a year, or about 2,000 tons per day. Currently, the landfill receives 300-350 tons of trash a day from the county, and only seven years of capacity remain, officials said.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,            )  
   )  
                                   Petitioner, ) PCB NO. 2010-103  
   )  
                   v.                        )  
   ) DEPOSITION OF  
 COUNTY BOARD OF DEKALB        ) LARRY ANDERSON  
 COUNTY, ILLINOIS and WASTE    )  
 MANAGEMENT OF ILLINOIS,        )  
 INC.,                                    )  
   )  
                                   Respondent. )

DEPOSITION OF LARRY ANDERSON, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on September 29, 2010, commencing at 9:10 a.m., before Julie K. Edeus, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



## 1 APPEARANCES:

2 ATTORNEY GEORGE MUELLER,  
3 of the firm of Mueller Anderson, P.C.,  
4 603 Etna Road,  
5 Ottawa, Illinois, 61350,

6  
7 Counsel for the Petitioner.

8  
9 ATTORNEY DONALD J. MORAN,  
10 of the firm of Pedersen & Houpt,  
11 161 North Clark Street, Ste. 3100,  
12 Chicago, Illinois, 60601-3242,

13  
14 Counsel for Respondent  
15 Waste Management of  
16 Illinois, Inc.

17  
18 ATTORNEY AMY ANTONIOLLI,  
19 of the firm of Schiff Hardin,  
20 6600 Sears Tower,  
21 Chicago, Illinois, 60606,

22  
23 Counsel for Respondent  
24 County Board of DeKalb County,  
Illinois.

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1                   LARRY ANDERSON,  
2           being first duly sworn, was examined and  
3           testified as follows:

4                   EXAMINATION

5           BY MR. MUELLER:

6           Q.   Would you state your full name, please.

7           A.   Larry Anderson.

8                   MR. MUELLER: Let the record show this is  
9           the discovery deposition of Larry Anderson taken  
10          pursuant to notice and in accordance with the  
11          rules and by agreement of the parties.

12                  Mr. Anderson, I'm George Mueller. I'm the  
13          attorney for the Stop The Mega-Dump Group and  
14          have some questions for you regarding the  
15          expansion of the DeKalb County Landfill.

16                  Have you ever had your deposition taken in  
17          any case for any reason?

18          A.   For this case?

19          Q.   In any case.

20          A.   Once, yes.

21          Q.   So you're generally familiar with how  
22          depositions work?

23          A.   It was 20 years ago, but somewhat.

24          Q.   Okay. Let me go through it briefly. The court

1 reporter is taking down everything that any of  
2 us say and so it's important to not talk over  
3 each other, to keep our answers verbal and  
4 audible as opposed to answering with gestures;  
5 is that clear to you?

6 A. Yes.

7 Q. Do you also understand you're under oath?

8 A. Yes.

9 Q. If I ask you a question and you don't  
10 understand it feel free to have me rephrase it;  
11 is that fair?

12 A. Yes. Thank you.

13 Q. Okay. Sir, where do you reside?

14 A. 5059 Fairview Drive, Malta, Illinois.

15 Q. And what's your profession, sir?

16 A. I'm an organic grain farmer.

17 Q. How long have you been a farmer?

18 A. Since I was 19 years old.

19 Q. How much acreage do you farm?

20 A. 446 acres.

21 Q. How much of that do you own?

22 A. 446 acres.

23 Q. Do you have any employment outside of farming?

24 A. County Board Representative from District 1.

1 Q. Forgive me for asking some dumb and obvious  
2 questions, but where is District 1?

3 A. District 1 is basically the western third of  
4 DeKalb County plus Mayfield Township and part of  
5 Sycamore Township.

6 Q. How long have you been the County Board  
7 representative?

8 A. I'm finishing my sixth year.

9 Q. So you are not up for election, correct?

10 A. No.

11 Q. You'll be up again in 2012?

12 A. If I decide to run.

13 Q. All right. That's a great job, wouldn't  
14 everybody want to? You don't have to answer  
15 that.

16 What is your party affiliation, sir?

17 A. Republican.

18 Q. What's your highest level of education?

19 A. Some college.

20 Q. Did you vote for or against the landfill  
21 expansion?

22 A. I voted for the expansion.

23 Q. What committees are you on at the County Board?

24 A. Forest preserve, planning and zoning and the



1 executive committee.

2 Q. What's the executive committee do?

3 A. The executive committee is basically all the  
4 chairmans of the seven committees of the County  
5 Board plus the chairman and the vice chairman of  
6 the County Board.

7 Q. Are you a chairman of either the forest  
8 preserve or planning and zoning committee?

9 A. No.

10 Q. Then are you the vice chairman of the board?

11 A. Yes, I am.

12 Q. Oh, okay. How long have you had that title?

13 A. About two years.

14 Q. Is that a position that is elected by the other  
15 board members or appointed by the board  
16 chairman?

17 A. I would say because of the rules of the County  
18 Board, the democrats have the chairmanship and  
19 the vice chairman goes to the Republican party  
20 and then caucuses -- other republican parties  
21 elected me.

22 Q. What's the democrat/republican split on the  
23 board right now?

24 A. 12-12.

1 Q. Were you involved in negotiating the host  
2 agreement for Waste Management's proposed  
3 expansion?

4 A. What do you mean negotiating?

5 Q. Were you active in the host agreement  
6 negotiations?

7 A. No.

8 Q. What committee did that?

9 A. I do not know.

10 Q. All right, but you were not an active  
11 participant that went back and forth in those  
12 negotiations?

13 A. No.

14 Q. Do you know Lee Addleman?

15 A. I know who he is.

16 Q. Have you ever had any communication with him  
17 other than to exchange pleasantries?

18 A. No.

19 Q. Do you know Dale Hoekstra?

20 A. Yes.

21 Q. Have you ever had any communication with him  
22 other than to exchange pleasantries?

23 A. No.

24 Q. Do you have a social relationship with any

1 employee or representative of Waste Management?

2 A. No.

3 Q. Have you ever met privately in your capacity as  
4 a County Board member with any employee or  
5 representative of Waste Management?

6 A. No.

7 Q. Did you attend a tour of the Waste Management  
8 facility in Will County last year?

9 A. No.

10 Q. And were you invited to attend that tour?

11 A. Yes.

12 Q. Why didn't you attend?

13 A. Timing and scheduling. I'm a busy person.

14 Q. Who invited you to attend that tour?

15 A. If I recall, an e-mail came from Mary Supple.

16 Q. Did you ever talk to any other County Board  
17 member personally or any other County employee  
18 personally about attending or not attending?

19 A. No.

20 Q. Is it fair to say that because of your  
21 profession the busiest months of your year  
22 work-wise are from the early spring through the  
23 fall?

24 A. Basically, yes.

1 Q. Were you on the landfill siting committee?

2 A. No.

3 Q. Did you attend the public hearings?

4 A. No.

5 Q. Did you attend any of them?

6 A. I had a knee operation during that time, so I  
7 was in the hospital most of the time. No, I did  
8 not attend anything.

9 Q. All right. Is your knee okay now?

10 A. As good as it's going to get.

11 Q. Okay, so the answer is you did not go to any of  
12 the meetings?

13 A. No.

14 Q. Were the transcripts made available to you of  
15 those meetings?

16 A. Yes.

17 Q. Did you review the transcripts?

18 A. Yes, I did.

19 Q. If you didn't attend the meetings then would it  
20 be fair to say -- or I mean the hearings would  
21 it be fair to say that you didn't hear anything  
22 that might have been said by other board members  
23 to members of the public during those meetings?

24 A. No.

1 Q. No, you didn't hear anything or no, that  
2 wouldn't be fair to say?

3 A. I didn't hear anything, no.

4 Q. Did you have any conversations from the time  
5 the host agreement was approved until May 10th  
6 of this year with any other County Board members  
7 regarding their views on the landfill expansion?

8 A. No.

9 Q. Did you receive any communications from any  
10 other County Board members either oral or  
11 written urging you to vote yes on the  
12 application for expansion?

13 A. No.

14 Q. Are you familiar with the plans to expand the  
15 courthouse and jail?

16 A. Yes.

17 Q. You are on the planning and zoning committee.  
18 Is that the committee that has been dealing with  
19 that issue for the past couple of years?

20 A. I'm going to say there's a special committee  
21 that does that.

22 Q. All right. You're not on that special  
23 committee?

24 A. Yes, I am on the courthouse committee.

1 Q. Okay. Are you the chairman of the courthouse  
2 committee?

3 A. No.

4 Q. How long has that special committee for  
5 expansion of the courthouse and jail been in  
6 existence?

7 A. I'm not really quite sure. I'm not sure of  
8 that.

9 Q. Approximately?

10 A. Maybe six months, eight months. I'm not sure.

11 Q. All right. How long has that expansion been  
12 actively discussed?

13 A. I suppose it's been several years.

14 Q. How does the County plan to pay for that  
15 expansion?

16 A. Of the courthouse?

17 Q. Yes.

18 A. From sales tax revenue from the old County farm  
19 property.

20 Q. Are there going to be bonds issued for that  
21 construction project?

22 A. Yes.

23 Q. And the bonds will be paid for from sales tax?

24 A. Yes.

1 Q. Was there ever a discussion of paying for those  
2 bonds from host fees from the expanded landfill?

3 A. No.

4 Q. Was that to your knowledge ever even under  
5 consideration by the County?

6 A. No, never.

7 Q. Have those bonds as we speak been sold?

8 A. To my knowledge not yet.

9 Q. Mr. Anderson, during what period of time were  
10 you laid up with your knee problem?

11 A. From February 22nd, my operation and then it  
12 was about for a couple of months I didn't do too  
13 much after that.

14 Q. Are you aware of any personal relationship  
15 between any other County Board member and any  
16 representative of Waste Management?

17 A. No.

18 Q. Have you ever been present at any presentation  
19 made by a representative of Waste Management  
20 regarding their plans for the expanded landfill?

21 A. Yes.

22 Q. Where?

23 A. At a full County Board meeting.

24 Q. And do you remember approximately when that

1 was?

2 A. No, I do not remember when that was.

3 Q. Would it have been this year or last year?

4 A. I am not sure. I do not remember.

5 Q. Do you remember who did the presentation?

6 A. It seems like there was several of them that  
7 gave the presentation, but I don't remember who  
8 it was.

9 Q. But this was outside the context of the siting  
10 hearings; is that right?

11 A. Yes.

12 Q. Would this have been in the context of the  
13 County Board having to vote on the host  
14 agreement?

15 A. No.

16 Q. Do you remember approximately how long this  
17 presentation took?

18 A. No.

19 Q. Did you ever tell any member of the public and  
20 by member of the public I mean someone other  
21 than a County Board member or a County employee  
22 that approval of this landfill expansion was a  
23 done deal?

24 A. No.



1 Q. Did you ever tell any member of the public  
2 words to that effect?

3 A. No.

4 Q. Did you ever tell any member of the public that  
5 the County had no choice but to approve this  
6 expansion?

7 A. No.

8 Q. Did you ever send an e-mail or letter to any  
9 member of the public that indicated the County  
10 had no choice or that it was a done deal or  
11 words to that effect?

12 A. No.

13 MR. MUELLER: That's all the questions I  
14 have. Thank you, sir.

15 MR. MORAN: I have a few questions.

16 EXAMINATION

17 BY MR. MORAN:

18 Q. Mr. Anderson, were you aware as to when the  
19 site location application was filed with the  
20 County Board -- in other words, the application  
21 to expand the landfill?

22 A. The date, no, I do not know when that was.

23 Q. If I indicated to you that that date was  
24 November 30th of 2009 would you have any reason

1 to disagree with me?

2 A. No.

3 Q. And the County Board voted on that application  
4 on May 10th of 2010; would that be correct?

5 A. If you say so. I'm not -- I don't remember  
6 that.

7 Q. The County Board held a full meeting in order  
8 to vote on the application; is that correct?

9 A. That's correct.

10 Q. And did you attend that meeting?

11 A. Yes, I did.

12 Q. And as you indicated a couple minutes ago, you  
13 voted to approve the application, correct?

14 A. Yes.

15 Q. Now, after the site location application was  
16 filed on November 30th of 2009 were you given  
17 any instructions as to whether you could  
18 communicate with any party to that siting  
19 proceeding?

20 A. If I recall we were told we weren't supposed to  
21 talk to anybody about anything. That's  
22 basically the best way to put it.

23 Q. And that instruction included any party to the  
24 proceeding, in other words, the Applicant, Waste

1 Management of Illinois, any party, person who  
2 wished to participate in the siting proceeding;  
3 would that be correct?

4 A. That's correct.

5 Q. And did you abide by that instruction?

6 A. Yes.

7 Q. Did anyone from Waste Management of Illinois  
8 attempt to communicate to you either in writing,  
9 orally or directly from the period of November  
10 30th, 2009 until May 10th, 2010?

11 A. No.

12 Q. And you also did not communicate orally or in  
13 writing with any agent or employee of Waste  
14 Management of Illinois, Inc. during that period?

15 A. I did not.

16 Q. Did you receive any written or oral  
17 communications from any other person about the  
18 proposed expansion from November 30th, 2009 to  
19 May 10, 2010?

20 A. Constituents.

21 Q. When did you receive the first such  
22 communication?

23 A. I can't tell you exact date. I do not know.

24 Q. What was the form of the communication, a

1 letter, an e-mail?

2 A. E-mails or phone calls.

3 Q. How many phone calls did you receive during

4 this period from constituents regarding the

5 proposed expansion?

6 A. Many.

7 Q. More than you can count?

8 A. Yes.

9 Q. Did any of these individuals identify

10 themselves?

11 A. I made them identify themselves.

12 Q. Okay, and who was it that contacted you during

13 this period?

14 A. People from the County from my district and

15 other members of the County.

16 Q. What were their names, if you remember?

17 A. I don't even remember some of the names. There

18 were so many of them I don't even remember them.

19 Q. Do you remember the substance of anything that

20 they told you in these phone calls or that they

21 said to you in these calls?

22 A. They were either for or against the expansion.

23 Q. And can you tell us approximately the number of

24 people who were in favor of the expansion from

1 all those who called you, was it half, was it a

2 tenth, was it --

3 A. About half and half I'd say.

4 Q. So you had a relatively equal distribution

5 between the pros and the cons of the people who

6 called you?

7 A. Correct.

8 Q. And these were constituents?

9 A. Yes.

10 Q. In any of these conversations did you respond

11 or say anything to the callers?

12 A. Like give them my opinion, is that what you

13 mean?

14 Q. Yes, or to say I was instructed I can't speak

15 to you.

16 A. Oh, I instructed I was not to talk -- I

17 couldn't talk to them. I might add it made them

18 very mad -- the constituents, but that's the law

19 so that's what I abided by.

20 Q. And did you receive e-mails from constituents

21 about the proposed expansion during this period

22 of November 30th, 2009 through May 10th, 2010?

23 A. Yes.

24 Q. About how many e-mails did you receive?

1 A. A lot.

2 Q. And the persons who sent the e-mails, do you  
3 recall the names of any of those persons?

4 A. Some of them I never heard of before.

5 Q. Were all the e-mails opposed to the proposed  
6 expansion?

7 A. Probably two-thirds opposed, one for --  
8 one-third for.

9 Q. Did you respond to any of the e-mails --

10 A. No.

11 Q. -- either in writing or otherwise?

12 A. No.

13 Q. And the reason you didn't respond was because  
14 of the instruction you had been given about  
15 communications with any parties?

16 A. That's correct.

17 Q. Now, did you consider any of this information  
18 you received from these phone calls from  
19 constituents in making your decision on the  
20 siting application?

21 A. No.

22 Q. Did any of this information that was  
23 communicated to you in these phone calls affect  
24 or influence your decision on the siting

1 application?

2 A. No.

3 Q. Did you consider any information that was not  
4 presented in the siting proceeding or not made  
5 part of or contained in the siting record in  
6 making your decision on the siting application?

7 A. No.

8 Q. Did any information that was not presented in  
9 the proceeding or not contained in the record  
10 affect or influence your decision on the siting  
11 application?

12 A. No.

13 Q. And did you make your decision on the siting  
14 application at any point prior to April 20th of  
15 2010?

16 A. The night before the vote.

17 MR. MORAN: Thank you, Mr. Anderson. I  
18 have no further questions.

19 MS. ANTONIOLLI: And neither do I.

20 MR. MUELLER: I've got one in follow-up.

21 EXAMINATION

22 BY MR. MUELLER:

23 Q. Would the meeting of the County Board where  
24 this presentation by Waste Management was made

1 have been at a host community agreement workshop  
2 held on February 24th, 2009?

3 A. I'm going to say no. I think it was after  
4 that.

5 MR. MUELLER: Okay. That's all I have.

6 Mr. Anderson, you've got the right to  
7 review the transcript of this deposition before  
8 it can be used for any purpose or you can trust  
9 the accuracy of the court reporter and waive  
10 your right to read and review it. You cannot  
11 change any answers, you can just correct  
12 transcription errors. It's up to you whether  
13 you want to waive signature or reserve the right  
14 to read and review the transcript.

15 MS. ANTONIOLLI: If you do choose to read  
16 and review the transcript you would go to the  
17 offices of the court reporter to do that and do  
18 the signature and if you choose to waive you can  
19 do so today on the record.

20 THE WITNESS: I will waive then.

21 MS. ANTONIOLLI: Okay. Let the record  
22 reflect that.

23 (The deposition was concluded at  
24 9:33 a.m.)



1                   C E R T I F I C A T E  
2

3           I, Julie K. Edeus, a Certified Shorthand  
4   Reporter in and for the State of Illinois, do hereby  
5   certify that, pursuant to the agreement herein  
6   contained, there came before me on the 29th day of  
7   September 2010 at 9:10 a.m. at the DeKalb County  
8   Legislative Center, 200 North Main Street, Sycamore,  
9   Illinois, the following-named person, to-wit: LARRY  
10   ANDERSON, who was duly sworn to testify to the truth  
11   and nothing but the truth of his knowledge  
12   concerning the matters in controversy in this cause;  
13   that he was thereupon examined on his oath and his  
14   examination reduced to writing under my supervision;  
15   that the deposition is a true record of the  
16   testimony given by the witness, and that the reading  
17   and signing of the deposition by said witness were  
18   expressly waived.

19  
20           I further certify that I am neither  
21   attorney or counsel for, nor related to or employed  
22   by, any of the parties to the action in which this  
23   deposition is taken, and further, that I am not a  
24   relative or employee of an attorney or counsel  
25   employed by the parties hereto or financially  
26   interested in the action.

27           In witness whereof I have hereunto set my  
28   hand this 15th day of November 2010.

29  
30           Julie K. Edeus  
31   Certified Shorthand Reporter  
32   IL License No. 084-003820  
33   P.O. Box 381  
34   Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )

)

Petitioner, ) PCB NO. 2010-103

)

v. )

) DEPOSITION OF

COUNTY BOARD OF DEKALB ) JERRY AUGSBERGER

COUNTY, ILLINOIS and WASTE )

MANAGEMENT OF ILLINOIS, )

INC., )

)

Respondents. )

DEPOSITION OF JERRY AUGSBERGER, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on October 20, 2010, commencing at 2:10 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



## 1 APPEARANCES:

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9

Counsel for the Respondent,  
10 Waste Management of  
Illinois, Inc.

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Witness: JERRY AUGSBERGER

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1                   JERRY AUGSBERGER,  
2           being first duly sworn, was examined and  
3           testified as follows:

4           MR. MORAN: Let the record reflect this is  
5           the discovery deposition of Jerry Augsberger  
6           taken pursuant to notice and agreement of the  
7           parties. This deposition is taken in the  
8           pending appeal of Stop The Mega-Dump versus  
9           DeKalb County Board and Waste Management of  
10          Illinois, Inc., PCB No. 10-103.

11                   EXAMINATION

12          BY MR. MORAN:

13          Q. Mr. Augsberger, my name is Don Moran, I  
14          represent Waste Management of Illinois, Inc. in  
15          connection with the site location application it  
16          filed to expand the existing DeKalb County  
17          Landfill. I'm going to be asking you a number  
18          of questions relating to that appeal. I will  
19          try to ask questions as clearly as I can, but  
20          when a question is not clear to you for whatever  
21          reason I would ask that you request  
22          clarification, because it's important that your  
23          answers be responsive to the questions asked.  
24          Is that fair?



1 A. Yes.

2 Q. Also, at the deposition it will be necessary  
3 for you to respond audibly to all of the  
4 questions. The court reporter can't take down  
5 nonverbal gestures or cues, so if you could  
6 remember to provide those verbal responses on  
7 each occasion that would be appreciated.

8 Obviously we want to avoid talking over each  
9 other because the court reporter can generally  
10 only take down one of us talking at a time.

11 Does that sound fair?

12 A. Yes.

13 Q. Can you state your full name for us and spell  
14 your last name for our court reporter.

15 A. Jerry, J-E-R-R-Y, middle initial D, last name  
16 Augsberger, A-U-G-S-B-E-R-G-E-R.

17 Q. Mr. Augsberger, what is your address?

18 A. 2 Evergreen Circle, DeKalb, Illinois.

19 Q. What is your occupation?

20 A. I'm retired.

21 Q. When you were working what was your occupation?

22 A. I was an administrator of Northern Illinois  
23 University.

24 Q. When did you begin your service on the DeKalb

1 County Board?

2 A. In May or June of '05. I was appointed -- I  
3 was appointed to fill a vacancy that had been  
4 created due to a resignation.

5 Q. Were you subsequently elected to the board?

6 A. Yes, I was.

7 Q. When was that?

8 A. I was elected in '06 and again in '08.

9 Q. So you are next up for election in 2012?

10 A. Yes.

11 Q. What district do you serve?

12 A. District 7.

13 Q. What area does District 7 include?

14 A. It is all within the City of DeKalb, primarily  
15 would be the northwestern -- in the northwestern  
16 quadrant of DeKalb.

17 Q. Do you serve on any committees --

18 A. Yes.

19 Q. -- of the County Board?

20 A. Yes, I do.

21 Q. Which committees?

22 A. I serve on the forest preserve committee and on  
23 the county highway committee.

24 Q. What are your duties and responsibilities as a

1 County Board member?

2 A. Well, for the standing committees we take up  
3 issues that -- in the county highway, the  
4 administration of the county highway department,  
5 the administrator, and the county highway  
6 department brings issues to the standing  
7 committee, which we listen to, analyze, make  
8 decisions whether this should be passed along to  
9 the full County Board.

10 Essentially the same thing with the forest  
11 preserve. We have a very good and active forest  
12 preserve operation in DeKalb County and many  
13 issues come before that standing committee, and  
14 again, it's our job to analyze those issues and  
15 decide whether they should be passed along to  
16 the full County Board.

17 As a County Board member, I'm one of 24  
18 County Board members that are called upon to  
19 vote on various issues that are brought before  
20 the County Board as a whole that apply to the  
21 county government and all of the activities that  
22 the county government is responsible for.

23 Q. Including making decisions about a budget for  
24 the County?

1 A. Yes.

2 Q. And various policymaking matters and issues?

3 A. Yes.

4 Q. And passing legislation or ordinances regarding  
5 various matters affecting the County?

6 A. Yes.

7 Q. Would it be accurate to say that that  
8 responsibility is akin to one who is legislating  
9 or passing legislation on behalf of the County  
10 Board and County interests?

11 A. I believe so. I think it would -- as far as an  
12 analogy would be concerned, it would be the  
13 county government level analogous to the state  
14 legislature, the state level.

15 Q. And ordinarily those responsibilities would not  
16 include the performance of any judicial or judge  
17 making function; would that be correct?

18 A. That is correct.

19 Q. And by judicial or judge making function, I  
20 mean a manner in which you are presented with  
21 evidence and information and you are to make a  
22 decision based upon that evidence and  
23 information and not other factors, correct?

24 A. That is correct.

1 Q. Are you familiar with the site location  
2 application that was filed by Waste Management  
3 of Illinois, Inc. to expand the DeKalb County  
4 Landfill?

5 A. Yes.

6 Q. And was that application filed on November 30th  
7 of 2009?

8 A. I believe that's my understanding.

9 Q. Now, prior to the filing of that application  
10 had DeKalb County had discussions with Waste  
11 Management of Illinois with respect to a host  
12 community agreement?

13 A. I believe so, and as far as I can recall the  
14 host issue was a different issue than the  
15 expansion issue.

16 Q. Were you part of the negotiating team for that  
17 host agreement?

18 A. No.

19 Q. Did you vote on whether to approve the host  
20 agreement?

21 A. Yes.

22 Q. And was the host agreement approved?

23 A. Yes.

24 Q. Did you vote to approve it?

1 A. Yes.

2 Q. Was that on March 18th of 2009?

3 A. I don't recall the date.

4 Q. Does that sound --

5 A. I'll take your word for it.

6 Q. And if indeed it were on March 18th of 2009,  
7 that would have been approximately eight months  
8 prior to the filing of the site location  
9 application on November 30th of 2009, correct?

10 A. Yes.

11 Q. Now, was it your understanding that you were to  
12 ultimately review and make a decision on the  
13 site location application, you as a County Board  
14 member?

15 A. To -- again go over that.

16 Q. Was it your understanding that you were both to  
17 review and then make a decision on whether to  
18 approve or disapprove the site location  
19 application?

20 A. I believe so.

21 Q. Was it your understanding that your role in  
22 that regard was to perform a judicial function;  
23 that is, to consider evidence presented at the  
24 hearing and submitted to the board and then make

1 a decision based upon that evidence and  
2 information?

3 A. No.

4 Q. That wasn't your understanding?

5 A. You're talking about the site location --

6 Q. -- application, yes.

7 The site location application was filed,  
8 was it your understanding --

9 A. We did not do a judicial performance for the  
10 site -- you're talking about the continuing --

11 Q. I am talking only now about the site location  
12 application.

13 A. Oh, I'm sorry. I'm confused. You're talking  
14 about --

15 Q. Not the host agreement.

16 A. You're talking about the expansion now?

17 Q. Yes.

18 A. I'm sorry.

19 Q. The site location application for the  
20 expansion.

21 A. I thought you were talking about the host  
22 agreement.

23 Q. No.

24 A. Because the host agreement we did not do a

1 judicial decision on that.

2 Q. Right.

3 A. Okay.

4 Q. But with regard to the site location  
5 application, you did perform a judicial  
6 function?

7 A. Yes, yes.

8 Q. And that's unlike any other duty or function  
9 that you perform as a County Board member?

10 A. Yes.

11 Q. And that function included a review and  
12 consideration of the evidence and information  
13 presented to the County Board?

14 A. Yes.

15 Q. And, in fact, it involved performing a judicial  
16 or a quasi judicial function, correct?

17 A. Yes.

18 Q. And when that site location application was  
19 filed did you have any other understanding as to  
20 whether you could have communications with any  
21 of the parties to that site location  
22 application; in other words, the applicant,  
23 interested citizens, objectors, or others?

24 A. Initially I don't believe there was anything



1       communicated that that was a prohibition.

2       Q.   At some point did you come to learn that  
3       communications with any interested party to the  
4       site location application proceeding was  
5       improper?

6       A.   Yes.

7       Q.   And how did you come to learn that?

8       A.   Through our County Government Administrator,  
9       Mr. Bockman.

10      Q.   And what did Mr. Bockman do to communicate that  
11      information to you?

12      A.   Well, I believe for most of the County Board  
13      members it was probably in an e-mail. I,  
14      however, do not have a home computer or e-mail,  
15      so when that happens I receive a hard copy to  
16      that effect.

17      Q.   And this was a memorandum that Mr. Bockman  
18      had --

19      A.   Yes.

20      Q.   -- sent out?

21             And what did the memorandum say as best as  
22      you can recall?

23      A.   That we were not to discuss this issue with  
24      anyone or with other board members.

1 Q. And this issue being the proposal to expand the  
2 DeKalb County Landfill?

3 A. Yes.

4 Q. And any of the contents or information  
5 contained in the site location application?

6 A. Correct.

7 Q. Did you have any communications, written or  
8 oral, with any representative or employee of  
9 Waste Management of Illinois, Inc. between  
10 November 30th, 2009 and May 10, 2010, which was  
11 the date of the County Board vote on the site  
12 location application?

13 A. No.

14 Q. During that same period did you have any  
15 written or oral communication with or from any  
16 other person regarding the proposed expansion?

17 A. No.

18 Q. So during that entire period, November 30th,  
19 2009 to May 10, 2010, you received no  
20 communications, written or oral, from any  
21 constituent or any person regarding the proposed  
22 expansion?

23 A. I think one constituent called at some point  
24 before that November date when there was word on

1 the street and one constituent called to  
2 register a negative opinion about it. And maybe  
3 I should mention -- correct my answer, I  
4 mentioned to Amy that at some point I think  
5 after the application had been filed there was  
6 one other County Board member that tried to  
7 engage me in a conversation regarding the --  
8 this issue, and that board member expressed that  
9 that board member was going -- was not in favor  
10 of it, and I did not engage in that attempt to  
11 make a conversation.

12 Q. When did that communication occur?

13 A. I think it was before we had gotten -- we were  
14 notified that any form of discussion was to be  
15 prohibited.

16 Q. And that --

17 A. I cannot give you a specific date.

18 Q. If that memorandum from Mr. Bockman was sent in  
19 the middle of February of 2010, does that sound  
20 about right to you?

21 A. Yeah, yeah, I can accept that.

22 Q. And the communication you had with the board  
23 member was prior to the middle of February 2010?

24 A. Yes, yes.

1 Q. And this board member communicated to you in  
2 person, on the phone, in a letter, how did that  
3 communication occur?

4 A. It was -- I think it was a telephone  
5 conversation about another issue and that board  
6 member brought up this issue, and I did not  
7 engage in the con -- in the conversation but in  
8 that -- in that course that board member  
9 indicated that that board member was not in  
10 favor of this expansion.

11 Q. Did the board member say anything else to you  
12 in that phone conversation --

13 A. No.

14 Q. -- other than I'm not in favor of this  
15 proposal?

16 A. No. It was not a lengthy conversation and the  
17 conversation was about another issue.

18 Q. And did the other board member say anything  
19 that led you to believe that the board member  
20 wanted your response or your comment on the  
21 proposed expansion?

22 A. I -- my thought would be that there was a  
23 desire to elicit -- maybe to elicit an opinion  
24 on my part, which I did not give.

1 Q. Although you were not asked specifically for  
2 your opinion?

3 A. No, no.

4 Q. But you had the sense based on what was said to  
5 you that this board member was seeking your  
6 opinion on it?

7 A. Yes.

8 Q. And what did you say in response to what this  
9 board member said to you about the board member  
10 not being in favor of the application?

11 A. I really can't recall my specific words other  
12 than probably something along the line of, well,  
13 I think we should wait and see what's -- what's  
14 going to happen.

15 Q. So even though this was before you got the  
16 memo --

17 A. Yeah.

18 Q. -- from Mr. Bockman you determined it really  
19 wasn't your place to make any comment about the  
20 application or the proposed expansion?

21 A. I did not wish to give an opinion at that  
22 point.

23 Q. And what was your reason for not feeling that  
24 it was appropriate to give an opinion at that

1 point?

2 A. Probably one of propriety.

3 Q. How long did this phone conversation last?

4 A. I'm sure not more than a couple minutes.

5 Q. Who was the board member who told you this?

6 A. Do I need to give you the name of the board  
7 member?

8 Q. Yes, I'm asking for the name.

9 A. Okay. Eileen Dubin.

10 Q. Did you have any subsequent discussions with  
11 Ms. Dubin about the proposed expansion in this  
12 conversation?

13 A. No.

14 Q. And did she explain any reasons why she was not  
15 in favor of the proposed expansion?

16 A. I do not recall at the time. Again, this was a  
17 very brief conversation.

18 Q. You said there was another constituent who had  
19 called you before the application was filed?

20 A. Yes.

21 Q. About how long before the application was  
22 filed, a few weeks, couple months?

23 A. I'm thinking at least a couple months. This  
24 whole thing was on -- this issue was on the

1 street considerably before formal filing.

2 Q. Probably because of the host agreement having  
3 been approved?

4 A. That I cannot say.

5 Q. What was the name of the constituent?

6 A. I can't even -- I can't recall the name at this  
7 point.

8 Q. Was it a male or female?

9 A. Male -- or female, female.

10 Q. This was a phone call to you at your home?

11 A. This was a phone call.

12 Q. What did the person say in the phone call?

13 A. That she was -- I guess that she heard that  
14 this -- that the landfill was going to be  
15 expanded, that she'd heard and she was --  
16 thought that this was not a proper thing to do,  
17 that this was something that shouldn't be done.

18 Q. And how did you know that this person was one  
19 of your constituents?

20 A. I had the occasion to talk with her at a  
21 previous point during one of my election  
22 periods. And that's what I say, if I would have  
23 known her -- the question regarding her name  
24 would have came up I could have probably sifted

1 through my stuff and I could come up with a  
2 name.

3 Q. Did you have any response to what she said to  
4 you?

5 A. No. I'm trying to think, in fact, I believe it  
6 was -- I believe it was a recorded -- it was on  
7 my -- it was on my machine, it was on my  
8 telephone message machine, and I did not return  
9 her call.

10 Q. Did you talk to any other persons about the  
11 site location application for the proposed  
12 expansion at anytime prior to May 10, 2010 other  
13 than the two you have just described?

14 A. No.

15 Q. Had you heard any information to the effect  
16 that any County Board member had made up their  
17 minds as to whether they were going to vote for  
18 the expansion or against it before the close of  
19 the siting hearings and the close of the period  
20 within which people could submit public or  
21 written comment? Did you hear any stories  
22 about --

23 A. Well, the only stories like that that I recall  
24 hearing were stories that were coming from the



1 organized opposition.

2 Q. And what stories did you hear?

3 A. Well, at the hearings it was verbalized that  
4 presumably certain board members -- I don't  
5 recall that any names were mentioned, but that  
6 certain board members had already made up their  
7 mind and that this made this an inherently  
8 unfair hearing situation, and that kind of  
9 message was stated more than once during the  
10 course of the hearings, of which I attended all  
11 of the hearings at Kish.

12 Q. Did you subsequently learn or come to be aware  
13 of any information that supported this claim  
14 that certain board members had decided to  
15 approve the site location application before all  
16 the evidence was in?

17 A. No.

18 Q. Did you consider any evidence or information  
19 that was not contained in the siting application  
20 that was not presented at the public hearing or  
21 that was not made part of any written submission  
22 to the County Board in making your decision on  
23 the site location application?

24 A. No.

1 Q. Did any information that was not presented or  
2 any evidence not presented at the siting hearing  
3 contained in the site location application or  
4 included in a written submission to the County  
5 Board affect or influence your decision on the  
6 site location application?

7 A. Go over that question again.

8 Q. Did any evidence or information that was not  
9 contained in the site location application, not  
10 presented at the public hearing, or not included  
11 within a written submission made to the County  
12 Board affect or influence your decision on the  
13 site location application?

14 A. No.

15 Q. Did you make your decision on the site location  
16 application prior to April 20th of 2010?

17 A. When -- what date was the board vote?

18 Q. The vote on the site location application was  
19 on May 10th, 2010. Does that refresh your  
20 recollection?

21 A. Okay, go back to the preceding question.

22 Q. Did you make your decision on the site location  
23 application prior to April 20th of 2010?

24 A. No.

1 MR. MORAN: Thank you, Mr. Augsberger. I  
2 have no further questions.

3 THE WITNESS: Okay. I'm okay with that.

4 MS. ANTONIOLLI: I have no questions for  
5 you today.

6 Today the court reporter has transcribed  
7 your deposition, and you have the choice to  
8 review the deposition once it's ready and  
9 available and sign it -- that's for errors, and  
10 sign at that time; or you can waive signature  
11 today and trust that she had transcribed your  
12 deposition accurately.

13 THE WITNESS: I'm sure she has transcribed  
14 it accurately. I don't need to review it.

15 MS. ANTONIOLLI: Okay. Let the record  
16 reflect that he waived signature.

17 (The deposition was concluded at  
18 2:35 p.m.)

19

20

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24

1                   C E R T I F I C A T E  
2

3           I, Callie S. Bodmer, a Certified Shorthand  
4   Reporter in and for the State of Illinois, do hereby  
5   certify that, pursuant to the agreement herein  
6   contained, there came before me on the 20th day of  
7   October 2010 at 2:10 p.m. at the DeKalb County  
8   Legislative Center, 200 North Main Street, Sycamore,  
9   Illinois, the following-named person, to-wit: JERRY  
10   AUGSBERGER, who was duly sworn to testify to the  
11   truth and nothing but the truth of his knowledge  
12   concerning the matters in controversy in this cause;  
13   that he was thereupon examined on his oath and his  
14   examination reduced to writing under my supervision;  
15   that the deposition is a true record of the  
16   testimony given by the witness, and that the reading  
17   and signing of the deposition by said witness were  
18   expressly waived.

19  
20           I further certify that I am neither  
21   attorney or counsel for, nor related to or employed  
22   by, any of the parties to the action in which this  
23   deposition is taken, and further, that I am not a  
24   relative or employee of an attorney or counsel  
25   employed by the parties hereto or financially  
26   interested in the action.

27           In witness whereof I have hereunto set my  
28   hand this 9th day of November 2010.

29  
30  
31           Callie S. Bodmer  
32   Certified Shorthand Reporter  
33   Registered Professional Reporter  
34   IL License No. 084-004489  
35   P.O. Box 381  
36   Dixon, Illinois 61021

<p><b>A</b></p> <p>aboveentitled 1:22</p> <p>accept 15:21</p> <p>accurate 8:7</p> <p>accurately 23:12,14</p> <p>action 1:23 24:12,14</p> <p>active 7:11</p> <p>activities 7:21</p> <p>address 5:17</p> <p>administration 7:4</p> <p>administrator 5:22 7:5 13:8</p> <p>affect 22:5,12</p> <p>agreement 1:22 4:6 9:12 9:17,20,22 11:15,22,24 19:2 24:4</p> <p>akin 8:8</p> <p>amy 2:2 15:4</p> <p>analogous 8:13</p> <p>analogy 8:12</p> <p>analyze 7:7,14</p> <p>answer 15:3</p> <p>answers 4:23</p> <p>antoniolli 2:2 23:4,15</p> <p>anytime 20:12</p> <p>appeal 4:8,18</p> <p>appearances 2:1</p> <p>applicant 12:22</p> <p>application 4:15 9:2,6,9 10:9,13,19 11:6,7,12,19 12:5,18,22 13:4 14:5,12 15:5 17:10 17:20 18:19 18:21 20:11 21:15,19,23 22:3,6,9,13 22:16,18,23</p> <p>apply 7:20</p> <p>appointed 6:2,3</p> <p>appreciated 5:7</p> <p>appropriate 17:24</p> <p>approve 9:19,24 10:18 21:15</p> <p>approved 9:22 19:3</p> <p>approximately 10:7</p> <p>april 22:16,23</p> <p>area 6:13</p> <p>asked 4:23 17:1</p> 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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )  
 )  
 Petitioner, ) PCB NO. 2010-103  
 )  
 v. )  
 ) DEPOSITION OF  
 COUNTY BOARD OF DEKALB ) EILEEN DUBIN  
 COUNTY, ILLINOIS and WASTE )  
 MANAGEMENT OF ILLINOIS, )  
 INC., )  
 )  
 Respondents. )

DEPOSITION OF EILEEN DUBIN, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on October 1, 2010, commencing at 3:07 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.





## 1 APPEARANCES:

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12

Counsel for the Respondent,  
13 Waste Management of  
Illinois, Inc.

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EXHIBITS

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Certificate of Shorthand Reporter. . . .	24
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1                   EILEEN DUBIN,  
2           being first duly sworn, was examined and  
3           testified as follows:

4           MR. MORAN: Let the record reflect this is  
5           the deposition -- discovery deposition of Eileen  
6           Dubin taken pursuant to agreement of the parties  
7           and set by agreement as well.

8                   EXAMINATION

9           BY MR. MORAN:

10    Q. Ms. Dubin, my name is Don Moran, I represent  
11       Waste Management of Illinois, Inc. in connection  
12       with the site location application that was  
13       filed on November 30th, 2009 for an approval of  
14       the expansion of the DeKalb County Landfill.  
15       The County Board rendered their decision on the  
16       site location application on May 10th, 2010, and  
17       subsequently Stop The Mega-Dump group filed an  
18       appeal of that decision, which is one of the  
19       reasons that we're here now, we're here in  
20       connection with that appeal which is pending  
21       before the Illinois Pollution Control Board.

22                Before I start asking you questions, I'll  
23       first ask if you have ever been deposed before?

24    A. What do you mean by deposed?

1 Q. Appearing at a meeting like this with lawyers  
2 who were asking you questions about facts that  
3 you had observed, about information you had  
4 relating to some form of lawsuit or an appeal.

5 A. No, I don't recall ever having that.

6 Q. Well, let me just explain briefly some of the  
7 rules that we'll follow in this deposition. I  
8 will ask you a number of questions that relate  
9 to the appeal and the proposed expansion. I  
10 will try to make my questions as clear as  
11 possible; however, I frequently don't succeed,  
12 and when you don't understand a question, a  
13 term, or an inquiry, I would ask that you  
14 request clarification.

15 A. Sure.

16 Q. Because it's important that your answers are  
17 responsive to the questions. Does that sound  
18 fair?

19 A. Right, okay.

20 Q. In addition, all of your responses need to be  
21 oral, because the court reporter can't take down  
22 gestures or uh-huhs or other nonverbal  
23 statements such as they are. So if you could  
24 just remember to speak orally in response to any

1 questions and obviously to keep your voice up.

2 Does that sound fair?

3 A. Yes.

4 Q. Can you state your full name, please, and spell  
5 your last name.

6 A. My name is Eileen Dubin, D-U-B-I-N.

7 Q. What is your address?

8 A. 1627 Schifly Lane, that's S-C-H-I-F-L-Y Lane,  
9 in DeKalb, Illinois.

10 Q. When did you begin your service as a DeKalb  
11 County Board member?

12 A. As DeKalb what?

13 Q. County Board member.

14 A. In 2000 I was elected.

15 Q. And you have been elected twice since?

16 A. Three times, because the first time it was a  
17 two-year term and then I -- and now I'm up for  
18 re-election.

19 Q. You're up for re-election in a month?

20 A. Correct.

21 Q. In November of 2010?

22 A. Yes.

23 Q. And what is your party affiliation?

24 A. Democratic party.

1 Q. Do you have any candidates who are running  
2 against you?

3 A. Yes.

4 Q. Who are those candidates?

5 A. I have one candidate, name is Junior Fullerton.

6 Q. A Republican?

7 A. Yes.

8 Q. Have you -- first of all, what district do you  
9 serve?

10 A. District 8.

11 Q. What geographic area does District 8 encompass?

12 A. It's -- I don't know if you know streets. It's  
13 partly DeKalb, and I'm in precincts of Cortland  
14 2 and 4, so it goes across 23.

15 Q. Do you serve on any committees?

16 A. I chair the economic development committee  
17 currently, and I sit on the 708 Mental Health  
18 board, and I sit on the health and human  
19 services committee.

20 Q. And how long have you chaired the economic  
21 development committee?

22 A. It will be coming to four years at the end of  
23 this term.

24 Q. You're aware that a site location application

1 to expand the DeKalb County Landfill was filed  
2 on November 30th of 2009; would that be correct?

3 A. I believe I -- yeah, I understand that was the  
4 purpose and we were going to look into that,  
5 right.

6 Q. And prior to that application being filed there  
7 were discussions between DeKalb County and Waste  
8 Management of Illinois, Inc. regarding a  
9 proposed host community agreement; would that be  
10 correct?

11 A. I'm -- I assume. I know that they talked about  
12 a host agreement. I was not on the various  
13 committees that were working closely with this  
14 particular topic.

15 Q. Did you attend a workshop event in February of  
16 2009 in which Waste Management of Illinois, Inc.  
17 appeared to make a short presentation and answer  
18 questions from County Board members about a  
19 possible expansion of the landfill?

20 A. I really don't remember. Do you have  
21 attendance of people at that meeting? That is  
22 the only way I would really remember.

23 Q. Do you remember the County Board voting on a  
24 proposed host community agreement in March of

1 2009?

2 A. I believe -- I believe I do.

3 Q. Did you vote on the proposed host community  
4 agreement?

5 A. I assume I did, I'm really not sure to tell you  
6 the truth.

7 Q. You don't recall whether you voted in favor of  
8 it or against it?

9 A. No, I don't remember. I haven't gone, looked  
10 back at minutes or anything.

11 Q. Did you receive a memorandum from Ray Bockman  
12 in February of 2010 regarding the upcoming  
13 hearings on the site location application?

14 A. I'm pretty sure we all did, yes.

15 Q. Do you recall what the contents of that memo  
16 were?

17 A. The only thing I remember, and whether it was  
18 in that memo or after I don't know, was that as  
19 a County Board member we were not to have  
20 correspondence with people generally, and that  
21 we would go to the hearings, we had nine points  
22 that we were looking at, and then we were  
23 supposed to eventually vote.

24 Q. And so was it your understanding that you were



1 not to have any written or oral communications  
2 with any party to the site location proceedings,  
3 either the applicant, constituents, residents,  
4 objectors, or any other person?

5 A. That was the understanding I had.

6 Q. Was it also your understanding that the role  
7 you were to play in deciding this site location  
8 application was different than the role you had  
9 played in making other decisions on how to vote  
10 on a particular matter before the County Board?

11 A. It seemed rather narrow to me, let me put it  
12 that way.

13 Q. And was it your understanding that your  
14 decision on this site location application was  
15 to be based upon the evidence and written  
16 submissions made to the County Board as part of  
17 the site location proceeding?

18 A. I believe that was the understanding.

19 Q. And you were not to consider any information  
20 that was not presented at the siting hearing or  
21 submitted to the County Board as part of the  
22 site location proceeding; would that be fair?

23 A. I'm not sure.

24 Q. Between November 30th of 2009 and May 10th of

1 2010 did you have any written or oral  
2 communication with any employee or  
3 representative of Waste Management of Illinois,  
4 Inc. regarding the proposed expansion?

5 A. I really don't remember if I did or not. I  
6 know I went out to the facility to -- in Will  
7 County to see what they had done there.

8 Q. So you took a tour --

9 A. I took a tour, yes.

10 Q. -- of the Prairie View facility in Will County?

11 A. Yes.

12 Q. When did you do that?

13 A. I really should have gone through minutes. I  
14 guess I don't -- quite a few months --

15 Q. It was sometime in 2009?

16 A. Yeah.

17 Q. Was it in the summertime or the fall or the  
18 winter, do you remember?

19 A. I think it was in the summer, yeah, if I  
20 recall.

21 Q. Did any other County Board members or  
22 employees attend the tour?

23 A. Yes, we took the bus here and they took us.

24 Q. Who else attended the tour?

1 A. I'm sorry, I really don't remember.

2 Q. How did you get to Prairie View?

3 A. By a bus.

4 Q. A bus from?

5 A. From out here. We met the bus here and they

6 took us there and they returned us here.

7 Q. How long was the tour at the landfill

8 approximately?

9 A. Probably was a few hours with transportation.

10 Q. And do you remember any part of the tour as

11 you're sitting here now?

12 A. Yes, I was impressed with the way Waste

13 Management had handled it. It looked that it

14 was efficient. One of the things that I guess I

15 was particularly impressed with is the trucks

16 came in, they indicated they were able to

17 ascertain the type of materials that were coming

18 in and whether -- if it was not acceptable they

19 would not let them in if I recall, so that stuck

20 with me.

21 Q. Did you also have an opportunity to view waste

22 being placed in a cell at the landfill?

23 A. That I don't remember. I'm not sure.

24 Q. Who from Waste Management of Illinois, Inc. was

1 present at the tour at the landfill?

2 A. Again, names, I'm sorry, I don't remember.

3 Q. Do you know an individual by the name of Lee  
4 Adlemann?

5 A. Yeah, the name is familiar. I probably have  
6 met him.

7 Q. Do you know whether he's an employee of Waste  
8 Management of Illinois, Inc. or a representative  
9 of Waste Management of Illinois?

10 A. I thought there was a connection with Waste  
11 Management.

12 Q. Do you remember if Mr. Adlemann was on the  
13 tour?

14 A. I can't -- I really can't positively say.

15 Q. Are you familiar with an individual named Dale  
16 Hoekstra?

17 A. I may have heard the name, but I can't say if I  
18 met him on the street I would know who he is.

19 Q. And you don't recall if Mr. Hoekstra was one of  
20 those present at the tour of the Prairie View  
21 Landfill?

22 A. No.

23 Q. Was that the only time that you have visited a  
24 Waste Management of Illinois facility?

1 A. Yes.

2 Q. Had you ever been out to the existing DeKalb  
3 County Landfill at anytime?

4 A. I've passed it on occasion.

5 Q. You have never gone there and actually visited  
6 the facility; would that be correct?

7 A. That would be correct.

8 Q. You have driven by on Somonauk Road a couple  
9 times?

10 A. Right.

11 Q. Or maybe on 88?

12 A. Yeah, both, yeah.

13 Q. Did you receive any e-mails or letters from any  
14 citizens or residents regarding the proposed  
15 expansion between November 30th of 2009 and May  
16 10th, 2010?

17 A. I'm sure I did. I mean, just like everyone  
18 else there were e-mails, there were phone calls,  
19 and there were letters.

20 Q. Let's start first with the e-mails. From whom  
21 did you receive these e-mails?

22 A. I would say basically people living near the  
23 site.

24 Q. About how many e-mails did you receive?

- 1 A. I don't know, maybe three, four, five.
- 2 Q. Do you recall the names of any of the senders  
3 of these e-mails?
- 4 A. Not -- not right now. If I had reviewed I  
5 would have, but no, I don't.
- 6 Q. Is it your recollection that the e-mails came  
7 from people who lived in or around the Cortland  
8 area?
- 9 A. Some of them did, right. Those would be the  
10 people most involved and interested.
- 11 Q. Would it be accurate to say that all the  
12 e-mails you received were opposed to the  
13 proposed expansion?
- 14 A. There may have been one or two that were not.
- 15 Q. You don't remember or --
- 16 A. Don't remember who they were from, but I think  
17 there may have been -- there may have been one  
18 or two that were positive.
- 19 Q. Did you respond to any of the e-mails?
- 20 A. I tried -- no, basically I tried not to respond  
21 to them, because we were told that we shouldn't  
22 have communication.
- 23 Q. Do you recall any of the contents of the  
24 e-mails that opposed the proposed expansion; in

1 other words, what was said in those e-mails  
2 generally?

3 A. Yeah, typically what you hear now, the fact  
4 that it was close to the school for one thing,  
5 the fact that there will be gases escaping that  
6 may not be safe, you know, everything and  
7 anything.

8 Q. Did you receive any phone calls from persons  
9 regarding the proposed expansion between  
10 November 30th, 2009 and May 10, 2010?

11 A. I'm sure I did.

12 Q. Did you receive those phone calls at home or at  
13 work?

14 A. I'm retired, so I had to receive it at home.

15 Yeah, I received them at home.

16 Q. How many phone calls did you receive  
17 approximately, a dozen, half a dozen?

18 A. Probably less than half a dozen.

19 Q. From whom did you receive those phone calls?

20 A. I don't remember names, but basically people  
21 who were very, very heated about the situation  
22 and wanted me to know their position.

23 Q. And when you say heated about the situation,  
24 were they all opposed to the expansion?

1 A. I believe so.

2 Q. Were these individuals different than  
3 individuals who sent you the e-mails?

4 A. You mean were they the same people or not?

5 Q. Yeah.

6 A. Probably there was an overlap that some may  
7 have sent e-mails and some just may have decided  
8 to use the phone.

9 Q. What did you say in response to these people  
10 who called you up and were very heated about  
11 their feelings about the expansion?

12 A. Well, I listened to them, and I just thanked  
13 them for calling me and letting me know their  
14 position.

15 Q. Did you say anything else to them, like whether  
16 you agreed or disagreed with what they were  
17 saying?

18 A. No, I don't believe I did.

19 Q. How long did these phone calls last?

20 A. You mean individual calls?

21 Q. Yes. Were some a couple minutes, some longer,  
22 10 minutes?

23 A. Yeah, some were a couple minutes, a little  
24 longer.



1 Q. Were all the people who called you opposed to  
2 the expansion?

3 A. I believe so.

4 Q. Did you receive any letters from anyone  
5 regarding the proposed expansion?

6 A. During -- during --

7 Q. During the period November 30th, 2009 to May  
8 30th, 2010.

9 A. Yes.

10 Q. How many?

11 A. I don't know how many I received but I also  
12 received letters, because I happened to come  
13 across one not too long ago, from people that  
14 did not live near the facility but still felt  
15 strongly about the landfill.

16 Q. Where did those persons live?

17 A. Well, the one letter I saw was someone in my  
18 own precinct.

19 Q. Were all the letters opposed to the expansion?

20 A. Probably. I can't say positively, but  
21 probably.

22 Q. Did you respond to any of the letters?

23 A. No, I don't believe so.

24 Q. What did you do with the letters, did you keep

1       them, did you send them to the County?

2       A. I think I kept them for awhile. I think I

3       tossed some of them out.

4       Q. Did you tell anyone at the County Board, either  
5       a County Board member, the County Administrator,  
6       the State's Attorney, anyone that you had  
7       received these letters?

8       A. I don't remember.

9       Q. Did you tell anyone that you had received the  
10      e-mails regarding the proposed expansion?

11     A. I don't know, but I assume everyone was  
12     receiving the same kind of things so that the  
13     administration here must have known about it.

14     Q. Did you tell anyone that you were receiving  
15     phone calls regarding the proposed expansion?

16     A. I don't believe I mentioned it one way or the  
17     other.

18     Q. Did you talk to any other County Board member  
19     who told you that he or she had received  
20     e-mails, letters, or phone calls from people who  
21     were opposed to the proposed expansion?

22     A. I don't remember, but I wouldn't be surprised  
23     if on occasion we may have talked and someone  
24     said, oh, yes, I received something too.

1 Q. But as you're sitting here you don't recall any  
2 specific instances?

3 A. I don't, no.

4 Q. Do you recall having heard any County Board  
5 member at any point indicate that they had made  
6 up their mind to either vote in favor of or  
7 against the proposed expansion before the County  
8 Board vote on May 10th of 2010?

9 A. I don't remember.

10 Q. So you aren't -- or you don't have any  
11 information that indicates that there was some  
12 County Board member who decided to vote to  
13 approve this expansion let's say even before the  
14 hearings began?

15 A. I don't recall. I know that the -- you know,  
16 the people on the committee that was sitting in  
17 the hearings were much better versed than I was  
18 on the whole situation.

19 Q. And had you heard any information about whether  
20 any County Board member had decided to vote  
21 against the site location application before the  
22 siting hearings were over; in other words,  
23 somebody that already made up their mind to vote  
24 no before --

1 A. Yeah, I understand what you're asking me. What  
2 I'm trying to do is think if anyone said  
3 anything. I really don't recall.

4 Q. And you voted to deny the site location  
5 application on May 10th?

6 A. Correct.

7 Q. Did you make that decision to deny prior to  
8 April 20th of 2010?

9 A. I made it just before the vote, literally,  
10 because I took a lot of things into  
11 consideration.

12 Q. And, in fact, I believe after the vote you sent  
13 a letter to the Chronicle explaining your  
14 reasons for your vote; would that be correct?

15 A. Correct. That's correct.

16 Q. I'll show that to you.

17 A. That's fine.

18 (Dubin Exhibit No. 1 marked for  
19 identification.)

20 Q. Ms. Dubin, I'm going to show you what we have  
21 marked as Dubin Deposition Exhibit 1.

22 A. Oh, right, this is when this gentleman had  
23 written his letter and -- (witness peruses  
24 document).

1 Q. Do you recognize the letter?

2 A. Yeah, it's my letter.

3 Q. That's the letter you wrote?

4 A. Right.

5 Q. And sent into the Daily Chronicle?

6 A. Correct.

7 Q. What prompted you to write this letter?

8 A. Because I felt my -- both my colleagues on the  
9 Board and my constituents had to have an  
10 understanding of why I voted that way.

11 Q. And does the letter accurately describe the  
12 reasons you voted to deny the site location  
13 application?

14 A. I believe so.

15 MR. MORAN: Thank you, Ms. Dubin, I have  
16 no further questions.

17 MR. MUELLER: I don't have any questions.

18 THE WITNESS: Pardon me? You don't have  
19 any you said?

20 MR. MUELLER: No. Thank you. I don't  
21 want to take up any more of your Friday  
22 afternoon.

23 MS. ANTONIOLLI: I may have a question or  
24 two.

1 THE WITNESS: Okay.

2 MS. ANTONIOLLI: No, I don't have any  
3 further questions.

4 So at this point the court reporter has  
5 transcribed your deposition today, and you have  
6 a choice of reviewing the transcript once it's  
7 available at the court reporter's offices and  
8 reviewing it for errors and signing it at that  
9 time; or you can simply waive signature today  
10 and trust that she's transcribed it accurately.

11 THE WITNESS: I assume she transcribed it  
12 accurately, so I think that's fine.

13 MS. ANTONIOLLI: Okay. Thank you.

14 THE WITNESS: Thank you.

15 (The deposition was concluded at  
16 3:32 p.m.)

17

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1 CERTIFICATE  
2

3 I, Callie S. Bodmer, a Certified Shorthand  
4 Reporter in and for the State of Illinois, do hereby  
5 certify that, pursuant to the agreement herein  
6 contained, there came before me on the 1st day of  
7 October 2010 at 3:07 p.m. at the DeKalb County  
8 Legislative Center, 200 North Main Street, Sycamore,  
9 Illinois, the following-named person, to-wit:  
10 EILEEN DUBIN, who was duly sworn to testify to the  
11 truth and nothing but the truth of her knowledge  
12 concerning the matters in controversy in this cause;  
13 that she was thereupon examined on her oath and her  
14 examination reduced to writing under my supervision;  
15 that the deposition is a true record of the  
16 testimony given by the witness, and that the reading  
17 and signing of the deposition by said witness were  
18 expressly waived.  
19

20 I further certify that I am neither  
21 attorney or counsel for, nor related to or employed  
22 by, any of the parties to the action in which this  
23 deposition is taken, and further, that I am not a  
24 relative or employee of an attorney or counsel  
employed by the parties hereto or financially  
interested in the action.

In witness whereof I have hereunto set my  
hand this 10th day of October 2010.

Callie S. Bodmer  
Certified Shorthand Reporter  
Registered Professional Reporter  
IL License No. 084-004489  
P.O. Box 381  
Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )  
 )  
 Petitioner, ) PCB NO. 2010-103  
 )  
 v. )  
 ) DEPOSITION OF  
 COUNTY BOARD OF DEKALB ) SALLY DEFAUW  
 COUNTY, ILLINOIS and WASTE )  
 MANAGEMENT OF ILLINOIS, )  
 INC., )  
 )  
 Respondent. )

DEPOSITION OF SALLY DEFAUW, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on October 5, 2010, commencing at 3:25 p.m., before Julie K. Edeus, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



1 APPEARANCES:

2

3 ATTORNEY GEORGE MUELLER,  
of the firm of Mueller Anderson, P.C.,  
4 603 Etna Road,  
Ottawa, Illinois, 61350,

5

Counsel for the Petitioner.

6

7 ATTORNEY DONALD J. MORAN,  
of the firm of Pedersen & Houpt,  
8 161 North Clark Street, Ste. 3100,  
Chicago, Illinois, 60601-3242,

9

Counsel for Respondent  
Waste Management of  
Illinois, Inc.

10

11

12 ATTORNEY AMY ANTONIOLLI,  
of the firm of Schiff Hardin,  
13 6600 Sears Tower,  
Chicago, Illinois, 60606,

14

Counsel for Respondent  
County Board of DeKalb County,  
Illinois.

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Witness: SALLY DEFAUW

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1 MR. MORAN: Let the record reflect this is  
2 the discovery deposition of Sally DeFauw taken  
3 pursuant to agreement of the parties and  
4 scheduled this afternoon in the appeal pending  
5 with the Pollution Control Board No. 10-103.

6 SALLY DEFAUW,  
7 being first duly sworn, was examined and  
8 testified as follows:

9 EXAMINATION

10 BY MR. MORAN:

11 Q. Ms. DeFauw, my name is Don Moran. I represent  
12 Waste Management of Illinois, Inc., the  
13 Applicant, on a site location application which  
14 was approved by the DeKalb County Board on May  
15 10th, 2010. There was an appeal of that  
16 approval filed by the Stop The Mega-Dump group  
17 which, as I indicated, is pending before the  
18 Illinois Pollution Control Board. I'm going to  
19 be asking you a number of questions that relate  
20 to that appeal. Have you ever had your  
21 deposition taken --

22 A. No.

23 Q. -- before? As I said, I will ask a number of  
24 questions. I will try to be as clear as I can

1 be in asking those questions, but if there comes  
2 a point when you don't understand a question or  
3 a term I would ask that you request  
4 clarification, because it's important that your  
5 answers be responsive to the questions asked.

6 Is that fair?

7 A. Uh-huh, yes.

8 Q. That leads to another question and that is the  
9 court reporter will be transcribing everything  
10 said, but it has to be said in order to be  
11 transcribed, so you need to make audible  
12 responses to questions, not nonverbal responses  
13 or gestures and that will help. Does that make  
14 sense?

15 A. Yes.

16 Q. Could you state your full name please and spell  
17 your last name.

18 A. Sally DeFauw. Last name is spelled D-E capital  
19 F-A-U-W.

20 Q. And what is your address?

21 A. 310 Rolfe Road, DeKalb.

22 Q. What is your occupation?

23 A. I'm a museum curator.

24 Q. Do you work here in the DeKalb area?

1 A. No, I work in West Chicago.

2 Q. Oh. When did you begin your service on the  
3 County Board?

4 A. In 2004.

5 Q. Were you elected or appointed?

6 A. I was appointed and then ran for election.

7 Q. When did you run for election?

8 A. The fall of 2004.

9 Q. And have you run since then?

10 A. Yes, I ran in 2006.

11 Q. And are you running again in November of this  
12 year?

13 A. Yes.

14 Q. What district do you serve?

15 A. 7.

16 Q. What area does District 7 include?

17 A. District 7 is central DeKalb. Most of my  
18 district is north of Route 38. There's a little  
19 bit south of it, it's west of First Street and  
20 south of the Hillcrest area and then west to  
21 some of the dormitories -- the NIU dormitories.

22 Q. Do you serve on any committees?

23 A. Yes.

24 Q. Which committees?



1 A. Forest preserve and economic development.

2 Q. As a County Board member what are your duties  
3 and responsibilities?

4 A. To develop and -- I guess legislative  
5 procedures for the County to govern itself.

6 Q. And does it include policy-making functions?

7 A. Yes.

8 Q. And the determination of a budget for County  
9 business?

10 A. Yes.

11 Q. Are you aware that Waste Management of  
12 Illinois, Inc. filed a site location application  
13 to expand the existing DeKalb County landfill?

14 A. Yes.

15 Q. And when did you become aware of that filing?

16 A. Last fall.

17 Q. And in fact, the application was filed on  
18 November 30th of 2009?

19 A. Yes.

20 Q. Prior to the filing of that application had the  
21 County and Waste Management of Illinois  
22 negotiated a host community agreement?

23 A. Yes.

24 Q. Did you participate in the negotiation of that

1 agreement?

2 A. No.

3 Q. Did you vote on the agreement?

4 A. Yes.

5 Q. And how did you vote on the agreement?

6 A. I voted yes.

7 Q. Was it your understanding that by voting yes on  
8 the host community agreement you were also  
9 voting to approve the expansion of the existing  
10 landfill?

11 A. No.

12 Q. In your mind they were two separate events --  
13 two separate decisions to be made?

14 A. Yes.

15 Q. Had you heard any information that any other  
16 board member believed that by voting to approve  
17 the host community agreement he or she was  
18 approving the expansion of the landfill?

19 A. No.

20 Q. Did you have any understanding as to what your  
21 role would be in reviewing and making a decision  
22 on the site location application -- in other  
23 words, would it be the same as your general  
24 policy-making and legislative functions or would

1           it be a different function that you would have  
2           to play?

3    A.  No, it was different.

4    Q.  And different in what regard?

5    A.  It was more like a jury looking at information  
6           and looking at testimony.

7    Q.  More of a judicial function?

8    A.  Yes.

9    Q.  Reviewing or considering the evidence and  
10           information submitted and making a decision  
11           based on that evidence and information?

12   A.  Yes.

13   Q.  Were you also advised that because you were  
14           playing a different or a new role here that you  
15           were limited in the communications you could  
16           have with interested persons in the siting  
17           application process?

18   A.  Yes.

19   Q.  And what was the nature of that limitation as  
20           you understood it?

21   A.  We were not to discuss really the -- the  
22           landfill application matter with anyone as far  
23           as, you know, our determination or anything, you  
24           know, that we still had an open mind until the

1 May date -- the May vote on that, so we were not  
2 to really take in other information from them.

3 Q. So you were not to have any communications with  
4 Waste Management of Illinois, Inc.?

5 A. Correct.

6 Q. You were not to have any communications with  
7 any interested persons; that is, citizens or  
8 residents with respect to the proposed  
9 expansion?

10 A. Yes.

11 Q. And that limitation was to be in place between  
12 the time the application was filed, November  
13 30th, 2009 and the County Board's vote on the  
14 application, May 10th, 2010?

15 A. Yes.

16 Q. Did you have any written or oral communication  
17 with any agent, employee or representative of  
18 Waste Management of Illinois, Inc. between  
19 November 30th, 2009 and May 10th, 2010?

20 A. No.

21 Q. Did you have or receive any oral or written  
22 communications from any other person regarding  
23 the application or proposed expansion during  
24 that time period?

1 A. Yes.

2 Q. Could you describe for us what communications  
3 you had or received.

4 A. E-mails from people within the county and --

5 Q. And where did you receive these e-mails, at  
6 your home, at your place of business?

7 A. It's my place of business.

8 Q. How many e-mails did you receive approximately?

9 A. Maybe 15, maybe 20, I don't know.

10 Q. Who were any of the senders of these e-mails?

11 A. Dan Kenney did send an e-mail toward the end.

12 I really don't remember who they were.

13 Q. Did you read the e-mails when you received  
14 them?

15 A. I did.

16 Q. Were all of them opposed to the proposed  
17 expansion?

18 A. No.

19 Q. How many were in favor?

20 A. Maybe three, four.

21 Q. And the remaining 11 or 12 were all opposed?

22 A. Yes.

23 Q. Did you respond to any of the e-mails?

24 A. No.

1 Q. Did you print any of the e-mails?

2 A. No.

3 Q. You simply deleted them after you received  
4 them?

5 A. Yes.

6 Q. Did you receive any letters --

7 A. Yes.

8 Q. -- from anyone about the expansion during this  
9 period?

10 A. Yes.

11 Q. How many?

12 A. Again, maybe ten.

13 Q. Did you receive the letters at your home or  
14 place of business?

15 A. Home.

16 Q. Did you read the letters?

17 A. Yes.

18 Q. Were they all opposed to the expansion?

19 A. No.

20 Q. How many were in favor?

21 A. Maybe one or two.

22 Q. And the remaining eight or nine were opposed?

23 A. Yes.

24 Q. Did you respond to any of the letters?

1 A. No.

2 Q. Did you receive any phone calls from any  
3 persons regarding the application or the  
4 proposed expansion?

5 A. Yes.

6 Q. How many phone calls did you receive?

7 A. Maybe five or six.

8 Q. And who placed these calls?

9 A. They were people in the county. Again, people  
10 I didn't know.

11 Q. And you don't recall now any of their names?

12 A. No.

13 Q. What did these individuals say to you in these  
14 phone calls?

15 A. I think almost all of them would have been from  
16 people saying that they were opposed to the  
17 landfill expansion.

18 Q. Do you recall any reasons given why any one of  
19 these individuals was opposed to the expansion?

20 A. Probably due to the quantity of the proposed  
21 landfill -- quantity of materials.

22 Q. Was it that the landfill would be accepting  
23 out-of-county waste?

24 A. Yes.

1 Q. Was that expressed by each of these --

2 A. No.

3 Q. -- callers or by many of the callers?

4 A. Many.

5 Q. Would that be fair to say for the number -- for  
6 the e-mails you received from people opposing  
7 the expansion?

8 A. You know, as best I can remember, yes, but I  
9 don't remember all the reasons.

10 Q. Did you have any response to any of these  
11 callers in terms of what they were stating to  
12 you?

13 A. No. The only person I responded to was a  
14 neighbor who wrote a letter.

15 Q. And in these phone calls what would you tell  
16 people when they were expressing to you their --

17 A. No, I did not respond to any of the phone  
18 calls.

19 Q. Did you tell them you couldn't talk to them or  
20 did you just hang up on them?

21 A. They were -- they left a message because I was  
22 not home at the time.

23 Q. So you weren't actually personally  
24 communicating with them, they had left messages



1 for you --

2 A. Right.

3 Q. -- on your phone -- your voicemail?

4 A. Yes.

5 Q. Did you consider any evidence or information  
6 that was not presented at the siting -- at the  
7 siting hearing, contained in the siting  
8 application or submitted in writing as part of  
9 the record in making your decision on the siting  
10 application?

11 A. No.

12 Q. Did any information or evidence that was not  
13 contained in the siting application, not  
14 presented at the siting hearing or not submitted  
15 in writing to the County Board affect or  
16 influence your decision on the siting  
17 application?

18 A. No.

19 Q. Did you make your decision on the siting  
20 application prior to April 20th of 2010?

21 A. No.

22 MR. MORAN: Thank you. That's all the  
23 questions I have.

24 MR. MUELLER: I don't have any questions.

1 MS. ANTONIOLLI: And neither do I.

2 THE WITNESS: That's it?

3 MS. ANTONIOLLI: That's it. At this point

4 our court reporter has transcribed your

5 deposition today and you have an option to

6 review the transcript of your deposition for

7 errors and sign at that time or you can choose

8 to waive your signature today and trust that

9 she's transcribed your deposition accurately.

10 Okay?

11 THE WITNESS: Yes.

12 MS. ANTONIOLLI: Okay. Thank you.

13 THE REPORTER: Signature is waived?

14 MS. ANTONIOLLI: Signature is waived, yes.

15 (The deposition was concluded at

16 3:41 p.m.)

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CERTIFICATE

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I, Julie K. Edeus, a Certified Shorthand Reporter in and for the State of Illinois, do hereby certify that, pursuant to the agreement herein contained, there came before me on the 5th day of October 2010 at 3:25 p.m. at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, the following-named person, to-wit: SALLY DEFAUW, who was duly sworn to testify to the truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause; that she was thereupon examined on her oath and her examination reduced to writing under my supervision; that the deposition is a true record of the testimony given by the witness, and that the reading and signing of the deposition by said witness were expressly waived.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of an attorney or counsel employed by the parties hereto or financially interested in the action.

In witness whereof I have hereunto set my hand this 17th day of October 2010.

Julie K. Edeus  
Certified Shorthand Reporter  
IL License No. 084-003820  
P.O. Box 381  
Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )

)

Petitioner, ) PCB NO. 2010-103

)

v. )

) DEPOSITION OF

COUNTY BOARD OF DEKALB ) JOHN EMERSON

COUNTY, ILLINOIS and WASTE )

MANAGEMENT OF ILLINOIS, )

INC., )

)

Respondents. )

DEPOSITION OF JOHN EMERSON, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on November 2, 2010, commencing at 3:11 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



1 APPEARANCES:

2 ATTORNEY AMY ANTONIOLLI,  
of the firm of Schiff Hardin, LLP,  
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Chicago, Illinois, 60606,

4  
Counsel for the Respondent,  
5 County Board of DeKalb  
County, Illinois.

6  
ATTORNEY DONALD D. MORAN,  
7 of the firm of Pedersen & Houpt,  
161 North Clark Street, Suite 3100,  
8 Chicago, Illinois, 60601,

9 Counsel for the Respondent,  
Waste Management of  
10 Illinois, Inc.

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Witness: JOHN EMERSON

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1 JOHN EMERSON,  
2 being first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION

5 BY MR. MORAN:

6 Q. Could you state your full name, please, and  
7 spell your last name for the court reporter.

8 A. John Charles Emerson, E-M-E-R-S-O-N.

9 MR. MORAN: Let the record reflect this is  
10 the discovery deposition of John Emerson taken  
11 pursuant to agreement by the parties for  
12 scheduling at this time and place. The  
13 deposition is being taken in the appeal of Stop  
14 The Mega-Dump versus County Board of DeKalb  
15 County, and Waste Management of Illinois, Inc.,  
16 PCB No. 10-103.

17 Mr. Emerson, my name is Don Moran, I  
18 represent Waste Management of Illinois, Inc.,  
19 which filed a site location application for  
20 approval to expand the existing DeKalb County  
21 Landfill. I'm going to be asking you a number  
22 of questions that relate to the appeal that's  
23 been brought by Stop The Mega-Dump.

24 Have you ever been deposed before?

1 A. No.

2 Q. I will attempt, as I said, to ask a number of  
3 questions relating to that appeal. I'll try to  
4 be as clear as I can be; however, when I fail,  
5 and that may be often, I would ask that you  
6 request clarification of any questions or terms  
7 you don't understand, because it will be  
8 important that the answers you give are directly  
9 responsive to the questions. Does that sound  
10 fair?

11 A. Yes.

12 Q. Also, the court reporter is transcribing  
13 everything that will be said today so that I  
14 would ask that you avoid any nonverbal gestures  
15 or responses, because obviously the court  
16 reporter can't take those down. You need to  
17 respond audibly to any questions that are posed  
18 to you. Does that sound fair?

19 A. That's fine.

20 Q. Then also we need to avoid talking over one  
21 another, because it makes it more difficult for  
22 the court reporter to transcribe everything  
23 that's said.

24 With that, I will ask you your address,

1 where do you live?

2 A. I live at 30336 Lincoln Road, Genoa, Illinois,  
3 60135.

4 Q. What is your business or occupation?

5 A. I'm a farmer.

6 Q. When did you begin your service on the County  
7 Board?

8 A. Let's see, I was elected two years ago, so it  
9 would be two years ago. The 1st of December is  
10 when we were put on the board that year.

11 Q. What district do you serve?

12 A. District 2.

13 Q. What geographic area is included in District 2?

14 A. Basically Genoa and Kingston Township with a  
15 little bit of Mayfield Township on the west  
16 side.

17 Q. Do you serve on any committees?

18 A. I'm on the highway committee and the health and  
19 human services committee.

20 Q. Now, as a County Board member could you  
21 generally describe your duties and  
22 responsibilities?

23 A. Basically we listen to the -- or read the  
24 information that we're given on the business

1       affairs of DeKalb County and vote accordingly as  
2       we need to.

3       Q. Do your responsibilities include the  
4       determination of a budget for the County?

5       A. Yes.

6       Q. And do you evaluate other issues that are  
7       presented to you for purposes of making  
8       decisions or determinations of policies for the  
9       County?

10      A. Yes.

11      Q. And do you also have the opportunity to pass or  
12      adopt proposed legislation that would affect  
13      activities here in the County?

14      A. Yes.

15      Q. Would it be fair to say that your duties do not  
16      ordinarily include sitting in a judicial or a  
17      quasi judicial capacity to make a decision based  
18      upon evidence submitted, that's generally not  
19      part of what you do as a County Board member?

20      A. Ordinarily it's not.

21      Q. But there have been occasions in which you have  
22      been called upon to exercise that quasi judicial  
23      authority; would that be correct?

24      A. Yes, there has been one occasion.

1 Q. And was that occasion relating to the site  
2 location application filed by Waste Management  
3 of Illinois to expand the existing DeKalb County  
4 Landfill?

5 A. Yes.

6 Q. And that site location application was filed on  
7 November 30th of 2009?

8 A. I believe so, yes.

9 Q. Now, prior to the filing of the site location  
10 application did DeKalb County and Waste  
11 Management of Illinois, Inc. negotiate a host  
12 community agreement?

13 A. Yes.

14 Q. Did you participate in the negotiation of that  
15 agreement on behalf of DeKalb County?

16 A. No.

17 Q. Did you have an opportunity to vote on whether  
18 to approve that agreement?

19 A. Yes.

20 Q. And did that vote occur on March 18th of 2009?

21 A. I believe so.

22 Q. How did you vote?

23 A. I believe I voted yes.

24 Q. That was to approve the host community

1 agreement?

2 A. Yes.

3 Q. It was not a vote to approve the site location

4 application?

5 A. To my knowledge, that's correct.

6 Q. And you understood that by voting for the host

7 community agreement you were not at the same

8 time voting to approve any request to expand the

9 existing landfill?

10 A. Yes.

11 Q. Do you recall when you first became aware of

12 the filing of the site location application?

13 A. No.

14 Q. Was a copy of the site location application

15 made available for your review?

16 A. I believe it was.

17 Q. Was it made available in a hard copy form or an

18 electronic form, which is a DVD (sic)?

19 A. I got an electronic form.

20 Q. Was it a DVD?

21 A. Yes.

22 Q. Was it your understanding that once the site

23 location application was filed your ability to

24 communicate with any persons regarding the

1 application were limited in any way?

2 A. Yes. Yes.

3 Q. And was your understanding that you were  
4 prohibited from having any discussions or  
5 communications with the applicant, any citizen,  
6 any resident, any objector about the proposed  
7 expansion except in the context of the site  
8 location hearings, public hearings?

9 A. Yes, I understand that you basically weren't  
10 supposed to have a conversation with those  
11 people.

12 Q. Okay. Between November 30th, 2009, and May 10,  
13 2010, May 10 being the date the County Board  
14 voted on the site location application --

15 A. Okay.

16 Q. -- did you have any written, oral  
17 communications with any representative,  
18 employee, or agent of Waste Management of  
19 Illinois, Inc.?

20 A. No.

21 Q. During that same period, November 30, 2009 to  
22 May 10, 2010, did you have or receive any  
23 communications from any other person regarding  
24 the proposed expansion?

1 A. I don't believe so.

2 Q. At any point since November 30th of 2009 have  
3 you received any communication or had any  
4 communication with any person about the proposed  
5 expansion or about the County Board's vote on  
6 the site location application?

7 A. What was the time frame?

8 Q. From November 30th, 2009 until today.

9 A. I had one farmer ask me why I voted that way.

10 Q. And do you remember about when that was?

11 A. It was after the vote, after the vote of the  
12 County Board.

13 Q. A day after, a couple weeks ago, a month --

14 A. A couple weeks after.

15 Q. Was this in a face-to-face meeting with you,  
16 was it a phone call, was it a letter?

17 A. Face-to-face.

18 Q. Do you remember who the person was?

19 A. Yes.

20 Q. What was his name or her name?

21 A. Ralph Bash (phonetic).

22 Q. And did you respond to Mr. Bash?

23 A. Yeah, I --

24 Q. What did you say?



1 A. I told him that it met the criteria and it was  
2 business in DeKalb County.

3 Q. Did he say anything further to you after you  
4 responded?

5 A. No.

6 Q. Now, was it your understanding that you were to  
7 render your decision on the site location  
8 application only after all of the evidence that  
9 any party who wished to present evidence could  
10 submit to the County Board?

11 A. That's correct.

12 Q. And was it your understanding that it would not  
13 be appropriate for you to consider any  
14 information or communication that was given to  
15 you outside the context of the site location  
16 proceeding; that is, either in the site location  
17 application, at the public hearing, or in a  
18 written submission to the County Board?

19 A. Yes.

20 Q. Had you heard any stories at anytime from  
21 anyone that any County Board member had  
22 prejudged the site location application before  
23 the hearings began?

24 A. I recall there was one -- there was talk going

1 around about one board member who had made some  
2 comment that, you know, possibly he pretty well  
3 already made up his mind. Later on it was said  
4 by him that that was not true, that somebody  
5 else had made comments and it was incorrect.

6 Q. Which County Board member was it?

7 A. Riley Oncken.

8 Q. Did you talk personally with Mr. Oncken about  
9 those --

10 A. No.

11 Q. -- allegations?

12 You only heard about it --

13 A. I just heard about it.

14 Q. -- second- or third-hand?

15 A. Second- or third-hand.

16 Q. Other than that story, you hadn't heard  
17 anything else about any County Board member  
18 having decided to approve the site location  
19 application before all the evidence was in?

20 A. No.

21 Q. Did you consider any facts or information that  
22 was not contained in the site location  
23 application, presented at the public hearing, or  
24 contained in any submission to the County Board

1 in making your decision on the site location  
2 application?

3 A. No.

4 Q. Did any facts or information not contained in  
5 the site location application, not presented in  
6 the -- at the public hearing, or not contained  
7 in a written submission to the County Board  
8 affect or influence your decision on the site  
9 location application?

10 A. No.

11 Q. Did you make your decision on the site location  
12 application prior to April 20th of 2010, and  
13 April 20th, 2010 would have been approximately  
14 20 days before the County Board vote on May  
15 10th, 2010?

16 A. No.

17 Q. Mr. Emerson, had you heard any stories that  
18 County Board members had decided to vote in  
19 favor of the site location application because  
20 by approving it funds could be provided to pay  
21 for the bonds that would be issued to provide  
22 for the expansion of the DeKalb County jail?

23 A. You're talking about particular board members?

24 Q. Yes.

1 A. I'm not sure about that.

2 Q. So what you're saying is you don't have any  
3 information to indicate that any board member  
4 voted on the site location application because  
5 it would allow for the payment of any bonds to  
6 be issued for the jailhouse expansion?

7 A. I don't think that happened.

8 Q. Do you have any information to indicate that  
9 any County Board member voted to approve the  
10 site location application in order to pay for or  
11 fund the expansion of the courthouse?

12 A. I don't think so.

13 MR. MORAN: Thank you. I have no further  
14 questions.

15 MS. ANTONIOLLI: And nor do I.

16 And at this point the court reporter today  
17 has transcribed the deposition, and you have --  
18 you have the option to either wait for the  
19 transcript to be available for you to review and  
20 at that time sign for -- review for any errors  
21 and sign your transcript; or you can simply  
22 waive signature today and trust that our court  
23 reporter has accurately transcribed your  
24 deposition.

1 THE WITNESS: I'm pretty confident she's  
2 pretty accurate.

3 MS. ANTONIOLLI: Okay. You can let the  
4 record reflect waiver. Thank you.

5 (The deposition was concluded at  
6 3:26 p.m.)

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1                   C E R T I F I C A T E  
2

3           I, Callie S. Bodmer, a Certified Shorthand  
4   Reporter in and for the State of Illinois, do hereby  
5   certify that, pursuant to the agreement herein  
6   contained, there came before me on the 2nd day of  
7   November 2010 at 3:11 p.m. at the DeKalb County  
8   Legislative Center, 200 North Main Street, Sycamore,  
9   Illinois, the following-named person, to-wit: JOHN  
10   EMERSON, who was duly sworn to testify to the truth  
11   and nothing but the truth of his knowledge  
12   concerning the matters in controversy in this cause;  
13   that he was thereupon examined on his oath and his  
14   examination reduced to writing under my supervision;  
15   that the deposition is a true record of the  
16   testimony given by the witness, and that the reading  
17   and signing of the deposition by said witness were  
18   expressly waived.

19           I further certify that I am neither  
20   attorney or counsel for, nor related to or employed  
21   by, any of the parties to the action in which this  
22   deposition is taken, and further, that I am not a  
23   relative or employee of an attorney or counsel  
24   employed by the parties hereto or financially  
   interested in the action.

          In witness whereof I have hereunto set my  
hand this 11th day of November 2010.

          Callie S. Bodmer  
          Certified Shorthand Reporter  
          Registered Professional Reporter  
          IL License No. 084-004489  
          P.O. Box 381  
          Dixon, Illinois 61021

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