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Application for landfill expansion to be filed in days

Author(s): ELENA GRIMM 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.



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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

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RESPONDENT

EXHIBIT

519

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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.

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	1	APPEARANCES:	
	2	ATTORNEY GEORGE MUELLER,	
		of the firm of Mueller Anderson, P.C.,	
	3	603 Etna Road,	
		Ottawa, Illinois, 61350,	
	4		
		Counsel for the Petitioner.	
1	5		
	6	ATTORNEY DONALD J. MORAN,	
		of the firm of Pedersen & Houpt,	
	7	161 North Clark Street, Ste. 3100,	
		Chicago, Illinois, 60601-3242,	
	8		
1		Counsel for Respondent	
1	9	Waste Management of	
ł		Illinois, Inc.	
	10		
	11	ATTORNEY AMY ANTONIOLLI,	
		of the firm of Schiff Hardin,	
	12	6600 Sears Tower,	
ľ		Chicago, Illinois, 60606,	
	13		
		Counsel for Respondent	
	14	County Board of DeKalb County,	
	4 -	Illinois.	
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3	Witness: LARRY ANDERSON	
4		
5	Examination Page	
6	Attorney Mueller 4	
7	Attorney Moran 15	
8	Attorney Mueller	
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15	Certificate of Shorthand Reporter 23	
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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
1	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?
8	19	Q. In any case.
8	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.
3	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.
1	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

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	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
and	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.

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Q. Were you involved in negotiating the host	
agreement for Waste Management's proposed	
expansion?	
A. What do you mean negotiating?	
Q. Were you active in the host agreement	
negotiations?	
A. No.	
Q. What committee did that?	
A. I do not know.	
Q. All right, but you were not an active	
participant that went back and forth in those	
negotiations?	
A. No.	
Q. Do you know Lee Addleman?	
A. I know who he is.	
Q. Have you ever had any communication with him	
other than to exchange pleasantries?	
A. No.	
Q. Do you know Dale Hoekstra?	
A. Yes.	
Q. Have you ever had any communication with him	
other than to exchange pleasantries?	
A. No.	
Q. Do you have a social relationship with any	
	 agreement for Waste Management's proposed expansion? A. What do you mean negotiating? Q. Were you active in the host agreement negotiations? A. No. Q. What committee did that? A. I do not know. Q. All right, but you were not an active participant that went back and forth in those negotiations? A. No. Q. Do you know Lee Addleman? A. I know who he is. Q. Have you ever had any communication with him other than to exchange pleasantries? A. No. Q. Have you ever had any communication with him other than to exchange pleasantries? A. Yes. Q. Have you ever had any communication with him other than to exchange pleasantries? A. No.

	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?
3	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.

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	1	Q. Were you on the landfill siting committee?
	2	A. No.
	3	Q. Did you attend the public hearings?
100	4	A. No.
1	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.
3	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
1	23	committee?
12	24	A. Yes, I am on the courthouse committee.

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	Q. Okay. Are you the chairman of the courthouse
	committee?
	A. No.
	Q. How long has that special committee for
	expansion of the courthouse and jail been in
	existence?
	A. I'm not really quite sure. I'm not sure of
	that.
	Q. Approximately?
1	A. Maybe six months, eight months. I'm not sure.
1	Q. All right. How long has that expansion been
1:	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.

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	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

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	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.
100	5	Q. Do you remember who did the presentation?
10	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.

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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
1	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

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	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.	i
	5	Q. And did you abide by that instruction?	
	6	A. Yes.	
	7	Q. Did anyone from Waste Management of Illinois	
3	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	

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	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.	
1	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.
1	8	Q. And these were constituents?
1	9	A. Yes.
1	D	Q. In any of these conversations did you respond
1	1	or say anything to the callers?
1	2	A. Like give them my opinion, is that what you
1:	3	mean?
14	4 (Q. Yes, or to say I was instructed I can't speak
1	5	to you.
16	3 /	A. Oh, I instructed I was not to talk I
17	7	couldn't talk to them. I might add it made them
18	3	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	2	of November 30th, 2009 through May 10th, 2010?
23	s 4	A. Yes.
24	. (Q. About how many e-mails did you receive?

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	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.
101	5	Q. Were all the e-mails opposed to the proposed
	6	expansion?
	7	A. Probably two-thirds opposed, one for
9	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?
1	16	A. That's correct.
	17	Q. Now, did you consider any of this information
1	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

5	1	application?
1	2	A. No.
23	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
1	0	your right to read and review it. You cannot
1	1	change any answers, you can just correct
1	2	transcription errors. It's up to you whether
1	3	you want to waive signature or reserve the right
1	4	to read and review the transcript.
1	5	MS. ANTONIOLLI: If you do choose to read
1	6	and review the transcript you would go to the
1	7	offices of the court reporter to do that and do
1	8	the signature and if you choose to waive you can
1	9	do so today on the record.
2	0	THE WITNESS: I will waive then.
2	1	MS. ANTONIOLLI: Okay. Let the record
2	2	reflect that.
2	3	(The deposition was concluded at
2	4	9:33 a.m.)

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CERTIFICATE

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	2	
	3	I, Julie K. Edeus, a Certified Shorthand
		Reporter in and for the State of Illinois, do hereby
	4	certify that, pursuant to the agreement herein
		contained, there came before me on the 29th day of
	5	September 2010 at 9:10 a.m. at the DeKalb County
		Legislative Center, 200 North Main Street, Sycamore,
	6	Illinois, the following-named person, to-wit: LARRY
		ANDERSON, who was duly sworn to testify to the truth
	7	and nothing but the truth of his knowledge
		concerning the matters in controversy in this cause;
	8	that he was thereupon examined on his oath and his
		examination reduced to writing under my supervision;
	9	that the deposition is a true record of the
		testimony given by the witness, and that the reading
1	0	and signing of the deposition by said witness were
		expressly waived.
1	1	
		I further certify that I am neither
1	2	attorney or counsel for, nor related to or employed
		by, any of the parties to the action in which this
1	3	deposition is taken, and further, that I am not a
		relative or employee of an attorney or counsel
1	4	employed by the parties hereto or financially
		interested in the action.
1	5	
		In witness whereof I have hereunto set my
1	6	hand this 15th day of November 2010.
1		
1	-	
1	9	
_	_	Julie K. Edeus
2	0	Certified Shorthand Reporter
_		IL License No. 084-003820
2	1	P.O. Box 381
~	~	Dixon, Illinois 61021
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STOP THE MEGA-DUMP,
                           )
                )
         Petitioner, ) PCB NO. 2010-103
                )
     ۷.
                ) DEPOSITION OF
COUNTY BOARD OF DEKALB
                              ) JERRY AUGSBERGER
COUNTY, ILLINOIS and WASTE
                             )
MANAGEMENT OF ILLINOIS,
                             )
INC.,
                 )
                )
        Respondents. )
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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.



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1	APPEARANCES:	
2	ATTORNEY AMY ANTONIOLLI,	
	of the firm of Schiff Hardin, LLP,	
3	233 South Wacker Drive, Suite 7200,	
	Chicago, Illinois, 60606,	
4		
	Counsel for the Respondent,	
5	County Board of DeKalb	
	County, Illinois.	
6		
7	ATTORNEY DONALD D. MORAN,	
1	of the firm of Pedersen & Houpt,	
8	161 North Clark Street, Suite 3100,	
	Chicago, Illinois, 60601,	
9		
	Counsel for the Respondent,	
10	Waste Management of	
1	Illinois, Inc.	
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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	
2	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?	

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	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?
2	18	A. 2 Evergreen Circle, DeKalb, Illinois.
1000	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
- M.		

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	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.	
1	7	Q. When was that?	
100	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,
3	5	the administrator, and the county highway
	6	department brings issues to the standing
1990	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
2	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.
Ì	6	Q. And was that application filed on November 30th
	7	of 2009?
	8	A. I believe that's my understanding.
8	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.
ŀ	16	Q. Was it your understanding that you were both to
•	17	review and then make a decision on whether to
ŀ	18	approve or disapprove the site location
·	19	application?
2	20	A. I believe so.
2	21	Q. Was it your understanding that your role in
	22	that regard was to perform a judicial function;
2	23	that is, to consider evidence presented at the
2	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
1	6	Q application, yes.
3	7	The site location application was filed,
100.00	8	was it your understanding
	9	A. We did not do a judicial performance for the
1	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.
Ì	3	A. Okay.
	4	Q. But with regard to the site location
12	5	application, you did perform a judicial
11000	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

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9	1	communicated that that was a prohibition.
	2	Q. At some point did you come to learn that
8	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.

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	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	
1	5	contained in the site location application?	
	6	A. Correct.	
	7	Q. Did you have any communications, written or	
2	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	

100	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
h	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.
2	4	Q. But you had the sense based on what was said to
9	5	you that this board member was seeking your
1000	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?
į	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

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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

			19
e)	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.	
Ì	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?	
1	13	A. That she was I guess that she heard that	<u>.</u>
	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	3
	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	

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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

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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.

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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.

			23
	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	
ľ	8	2:35 p.m.)	
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CERTIFICATE

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	2	
	3	I, Callie S. Bodmer, a Certified Shorthand
		Reporter in and for the State of Illinois, do hereby
ļ	4	certify that, pursuant to the agreement herein
		contained, there came before me on the 20th day of
	5	October 2010 at 2:10 p.m. at the DeKalb County
		Legislative Center, 200 North Main Street, Sycamore,
3	6	Illinois, the following-named person, to-wit: JERRY
		AUGSBERGER, who was duly sworn to testify to the
	7	truth and nothing but the truth of his knowledge
		concerning the matters in controversy in this cause;
1	8	that he was thereupon examined on his oath and his
		examination reduced to writing under my supervision;
	9	that the deposition is a true record of the
		testimony given by the witness, and that the reading
	10	and signing of the deposition by said witness were
		expressly waived.
	11	
1		I further certify that I am neither
	12	attorney or counsel for, nor related to or employed
		by, any of the parties to the action in which this
	13	deposition is taken, and further, that I am not a
		relative or employee of an attorney or counsel
	14	employed by the parties hereto or financially
	4 -	interested in the action.
	15	
	16	In witness whereof I have hereunto set my
	10	hand this 9th day of November 2010.
	18	
	19	
	20	
	20	Callie S. Bodmer
	21	Certified Shorthand Reporter
		Registered Professional Reporter
	22	IL License No. 084-004489
1		P.O. Box 381
-	23	Dixon, Illinois 61021
	24	·····, ·····

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

1

RESPONDENT EXHIBIT

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STOP THE MEGA-DUMP,
                            )
                )
         Petitioner, ) PCB NO. 2010-103
                )
     ۷.
                ) DEPOSITION OF
COUNTY BOARD OF DEKALB
                              ) EILEEN DUBIN
COUNTY, ILLINOIS and WASTE
                            )
MANAGEMENT OF ILLINOIS,
                            )
INC.,
                 )
        Respondents.)
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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:
	2	ATTORNEY GEORGE MUELLER,
		of the firm of Mueller Anderson, P.C.,
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	4	
		Counsel for the Petitioner.
	5	
		ATTORNEY AMY ANTONIOLLI,
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	8	Counsel for the Respondent,
		County Board of DeKalb
	9	County, Illinois.
	10	ATTORNEY DONALD D. MORAN,
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	12	
		Counsel for the Respondent,
	13	Waste Management of
		Illinois, Inc.
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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?

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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.
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?
1	12	A. As DeKalb what?
1	13	Q. County Board member.
1	4	A. In 2000 I was elected.
1	15	Q. And you have been elected twice since?
1	6	A. Three times, because the first time it was a
1	7	two-year term and then I and now I'm up for
1	8	re-election.
1	9	Q. You're up for re-election in a month?
2	0	A. Correct.
2	1	Q. In November of 2010?
2	2	A. Yes.
2	3	Q. And what is your party affiliation?
2	4	A. Democratic party.

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1	Q.	Do you have any candidates who are running
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- 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?
- A. It will be coming to four years at the end of
- 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

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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

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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.
1	0	Q of the Prairie View facility in Will County?
1	1	A. Yes.
1	2	Q. When did you do that?
1	3	A. I really should have gone through minutes. I
1	4	guess I don't quite a few months
1	5	Q. It was sometime in 2009?
1	3	A. Yeah.
17	7	Q. Was it in the summertime or the fall or the
18	3	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	2	employees attend the tour?
23	3	A. Yes, we took the bus here and they took us.
24	- (Q. Who else attended the tour?

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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?

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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
2	22	have communication.
2	23	Q. Do you recall any of the contents of the
2	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?
2	22	A. I don't remember, but I wouldn't be surprised
	23	if on occasion we may have talked and someone
2	24	said, oh, yes, I received something too.

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	Q. But as you're sitting here you don't recall any
	specific instances?
	A. I don't, no.
	Q. Do you recall having heard any County Board
	member at any point indicate that they had made
	up their mind to either vote in favor of or
	against the proposed expansion before the County
	Board vote on May 10th of 2010?
	A. I don't remember.
1	Q. So you aren't or you don't have any
1	information that indicates that there was some
1	County Board member who decided to vote to
1	approve this expansion let's say even before the
1	hearings began?
1	A. I don't recall. I know that the you know,
1	the people on the committee that was sitting in
1	the hearings were much better versed than I was
1	on the whole situation.
19	Q. And had you heard any information about whether
20	any County Board member had decided to vote
2 [,]	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).

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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.

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		23
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.)	
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CERTIFICATE

	1 2	CERTIFICATE
	3	I, Callie S. Bodmer, a Certified Shorthand
	4	Reporter in and for the State of Illinois, do hereby certify that, pursuant to the agreement herein contained, there came before me on the 1st day of
	5	October 2010 at 3:07 p.m. at the DeKalb County
	6	Legislative Center, 200 North Main Street, Sycamore, Illinois, the following-named person, to-wit: EILEEN DUBIN, who was duly sworn to testify to the
	7	truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause;
	8	that she was thereupon examined on her oath and her examination reduced to writing under my supervision;
	9	that the deposition is a true record of the testimony given by the witness, and that the reading
	10	and signing of the deposition by said witness were expressly waived.
	11	
	12	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
	13	deposition is taken, and further, that I am not a relative or employee of an attorney or counsel
	14	employed by the parties hereto or financially interested in the action.
	15	In witness whereof I have hereunto set my
	16 17 18	hand this 10th day of October 2010.
	19	Callie S. Bodmer
	20	Certified Shorthand Reporter
4	21	Registered Professional Reporter IL License No. 084-004489 P.O. Box 381
1	22 23 24	Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

1

RESPONDENT EXHIBIT

```
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
10	Waste Management of
	Illinois, Inc.
11	
12	ATTORNEY AMY ANTONIOLLI,
	of the firm of Schiff Hardin,
13	6600 Sears Tower,
	Chicago, Illinois, 60606,
14	
	Counsel for Respondent
15	County Board of DeKalb County,
	Illinois.
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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
2	20	to that appeal. Have you ever had your
2	21	deposition taken
2	22	A. No.
2	23	Q before? As I said, I will ask a number of
2	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.
2	24	Q. Do you work here in the DeKalb area?

		6
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?	

			7	
	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	Α.	Yes.	
	8	Q.	And the determination of a budget for County	
	9		business?	
	10	А.	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?	and the second se
	14	A.	Yes.	CONTRACTOR OF A LOCAL OF A LOCAL OF
	15	Q.	And when did you become aware of that filing?	Contraction of the Contract of the Contract
	16	Α.	Last fall.	CLUB TO THE OWNER WITH THE
	17	Q.	And in fact, the application was filed on	Sectored as a view to under
.	18		November 30th of 2009?	A CONTRACTOR AND AND A CONTRACTOR AND AND A CONTRACTOR AN
.	19	Α.	Yes.	CONTRACTOR OF STATES
	20	Q.	Prior to the filing of that application had the	After a Statistication and
2	21	1	County and Waste Management of Illinois	ABRY C. A. BRUCCORT COLOR
2	22	I	negotiated a host community agreement?	4112 SL 5 bu box and and a start
2	23	A.	Yes.	and the second second second second
2	24	Q.	Did you participate in the negotiation of that	Construction and the second

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

		9
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?	A DATA AND A
12	A. Yes.	ond the second sec
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	and the second second second
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	

Γ

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.

		12
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.	10.11 4424000 000 000 000 000 000 000 000 000
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	l 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
2	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.)
17	
18	
19	
20	
21	
22	
23	
24	

CERTIFICATE

2	
3	I, Julie K. Edeus, a Certified Shorthand
	Reporter in and for the State of Illinois, do hereby
4	certify that, pursuant to the agreement herein
	contained, there came before me on the 5th day of
5	October 2010 at 3:25 p.m. at the DeKalb County
	•
6	Legislative Center, 200 North Main Street, Sycamore,
	Illinois, the following-named person, to-wit:
	SALLY DEFAUW, who was duly sworn to testify to the
7	truth and nothing but the truth of her knowledge
	concerning the matters in controversy in this cause;
8	that she was thereupon examined on her oath and her
	examination reduced to writing under my supervision;
9	that the deposition is a true record of the
	testimony given by the witness, and that the reading
10	and signing of the deposition by said witness were
	expressly waived.
11	
	I further certify that I am neither
12	attorney or counsel for, nor related to or employed
	by, any of the parties to the action in which this
13	deposition is taken, and further, that I am not a
	relative or employee of an attorney or counsel
14	employed by the parties hereto or financially
	interested in the action.
15	
	In witness whereof I have hereunto set my
16	hand this 17th day of October 2010.
17	
18	
19	
	Julie K. Edeus
20	Certified Shorthand Reporter
	IL License No. 084-003820
21	P.O. Box 381
00	Dixon, Illinois 61021
22	
23	
24	

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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RESPONDENT EXHIBIT

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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.)
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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.

			2
	1	APPEARANCES:	
	2	ATTORNEY AMY ANTONIOLLI,	
		of the firm of Schiff Hardin, LLP,	
	3	233 South Wacker Drive, Suite 7200,	
		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	a Distance and a second
	10	Illinois, Inc.	
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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,

		6
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

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	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.
1	16	Q. Other than that story, you hadn't heard
1	17	anything else about any County Board member
1	8	having decided to approve the site location
1	9	application before all the evidence was in?
2	20	A. No.
2	21	Q. Did you consider any facts or information that
2	22	was not contained in the site location
2	23	application, presented at the public hearing, or
2	.4	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.

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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.

		16
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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CERTIFICATE

1

2	
3	I, Callie S. Bodmer, a Certified Shorthand
	Reporter in and for the State of Illinois, do hereby
4	certify that, pursuant to the agreement herein
	contained, there came before me on the 2nd day of
5	November 2010 at 3:11 p.m. at the DeKalb County
	Legislative Center, 200 North Main Street, Sycamore,
6	Illinois, the following-named person, to-wit: JOHN EMERSON, who was duly sworn to testify to the truth
7	and nothing but the truth of his knowledge
	concerning the matters in controversy in this cause;
8	that he was thereupon examined on his oath and his
	examination reduced to writing under my supervision;
9	that the deposition is a true record of the
	testimony given by the witness, and that the reading
10	and signing of the deposition by said witness were
	expressly waived.
11	
	I further certify that I am neither
12	attorney or counsel for, nor related to or employed
	by, any of the parties to the action in which this
13	deposition is taken, and further, that I am not a
	relative or employee of an attorney or counsel
14	employed by the parties hereto or financially
	interested in the action.
15	
	In witness whereof I have hereunto set my
16	hand this 11th day of November 2010.
17	
18	
19	
20	
	Callie S. Bodmer
21	Certified Shorthand Reporter
	Registered Professional Reporter
22	IL License No. 084-004489
	P.O. Box 381
23	Dixon, Illinois 61021
24	

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