

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 14 2011

STATE OF ILLINOIS
Pollution Control Board

UNITED CITY OF YORKVILLE, A)
MUNICIPAL CORPORATION,)
Petitioner,)
v.)
HAMMAN FARMS,)
Respondent.)

PCB No. 08-96
Enforcement-Land, Air, Water

NOTICE OF FILING

TO: SEE PERSONS ON ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of Clerk of the Illinois Pollution Control Board, an original and nine copies each of PETITIONER'S RESPONSES TO RESPONDENT'S REQUEST FOR ADMISSIONS OF FACT AND GENUINENESS OF DOCUMENT, copies of which are herewith served upon you.

Respectfully submitted,

UNITED CITY OF YORKVILLE,
Petitioner,

By: Michelle LaGrotta
One of its Attorneys

Dated: January 14, 2011

Thomas G. Gardiner
Michelle M. LaGrotta
GARDINER KOCH & WEISBERG
53 W Jackson Blvd., Ste. 950
Chicago, IL 60604
(312) 362-0000
Atty ID: 29637

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, Michelle M. LaGrotta, the undersigned certify that on January 14, 2011, I have served the attached **PETITIONER'S MOTION TO STRIKE**, upon:

Mr. John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
(via hand delivery)

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 W Randolph Street
Chicago, IL 60601
(via hand delivery)

Charles F. Helsten
Nicola A. Nelson
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
(via email to: NNelson@hinshawlaw.com and CHelsten@hinshawlaw.com, and U.S. Mail)



Michelle M. LaGrotta

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 14 2011

STATE OF ILLINOIS
Pollution Control Board

UNITED CITY OF YORKVILLE, A
MUNICIPAL CORPORATION,
Petitioner,

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY, and
HAMMAN FARMS,
Respondents.

PCB No. 08-96

Enforcement-Land, Air, Water

**PETITIONER'S RESPONSES TO RESPONDENT'S REQUEST FOR ADMISSIONS
OF FACT AND GENUINENESS OF DOCUMENT**

NOW COMES Petitioner, UNITED CITY OF YORKVILLE, by and through its attorneys, Gardiner Koch Weisberg & Wrona, pursuant to 35 Ill. Adm. Code 101.618 and Supreme Court Rule 216, and for its responses to Respondent's Request for Admissions of Fact and Genuineness of Document, it states as follows:

RESPONSES TO REQUESTS FOR ADMISSIONS OF FACTS

1. Hamman Farms' property at issue in this litigation is a farm where crops are cultivated.

RESPONSE: Petitioner admits that the Hamman Farms' property at issue in this litigation is, in part, a farm and that on part of this property crops are cultivated. Petitioner denies that the entirety of the property issue in this litigation is a farm and used to cultivate crops.

2. The township in which Hamman Farms' property at issue in this litigation is located is designated as predominantly rural in the City's Comprehensive Plan.

RESPONSE: Petitioner objects to the request of the admission that township "is designated as predominantly rural in the City's Comprehensive Plan" on the basis that the request is vague and incapable of answer. Without waiving said objection, Petitioner admits that Yorkville Ordinance 2009-28, which adopts new comprehensive design guidelines for the United City of Yorkville, references a "rural character" but denies that said Ordinance acknowledges any designation of the township as predominantly rural.

3. On May 1, 2008, the Illinois Environmental Protection Agency issued a letter authorizing Hamman Farms to apply landscape waste material to its fields at a rate of up to 80 tons per acre per year, through December 31, 2011.

RESPONSE: Petitioner admits that the letter issued by the Illinois Environmental Protection Agency on May 1, 2008 states the following:

"Based upon information provided in the April 10, 2008 submittal, the Illinois Environmental Protection Agency is allowing an application rate of no more than 80 tons/acre per year of landscape waste at Hamman Farms, until December 31, 2011 under the following conditions..."

Petitioner denies remaining allegations that are inconsistent with the terms of the letter.

4. Illinois EPA's May 1, 2008 letter authorizes Hamman Farms to apply material to its fields up to 3 inches deep, and authorizes applications deeper than 3 inches if Hamman Farms maintains records showing that the total amount applied annually does not exceed 80 tons per acre.

RESPONSE: Petitioner admits that the letter issued by the Illinois Environmental Protection Agency on May 1, 2008 states the following:

"Based upon information provided in the April 10, 2008 submittal, the Illinois Environmental Protection Agency is allowing an application rate of no more than 80 tons/acre per year of landscape waste at Hamman Farms, until December 31, 2011 under the following conditions..."

3. Landscape waste may be applied to a maximum depth of 3", unless Hamman maintains appropriate records that demonstrate that the amount of landscape waste applied is less than or equal to 80 tons/acre/year..."

Petitioner denies remaining allegations that are inconsistent with the terms of the letter.

5. The City has no scientific laboratory results which show that Hamman Farms has emitted sufficient quantities of contaminants into the air so as to injure human, plant, or animal life, or to injure human health, or property.

RESPONSE: Petitioner admits Request No. 5.

6. The City has no scientific laboratory results which show that the landscape waste material applied to Hamman Farms' fields has resulted in alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State that will or is likely to render such waters harmful or detrimental or injurious to public health, safety or welfare.

RESPONSE: Petitioner admits Request No. 6.

7. The City has no scientific laboratory results which show that the landscape waste material applied to Hamman Farms' fields has resulted in alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State that will or is likely to render such waters harmful or detrimental or injurious to domestic, commercial, industrial, agricultural,

recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

RESPONSE: Petitioner admits Request No. 7.

8. The City has no scientific laboratory results which show that the landscape waste material applied to Hamman Farms' fields has caused a discharge of a contaminant into any waters of the State which will or is likely to render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

RESPONSE: Petitioner admits Request No. 8.

9. The City has no scientific laboratory results which show that the landscape waste material applied to Hamman Farms' fields has so altered the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or a discharge of any contaminant into any waters of the State, that will or is likely to cause a nuisance.

RESPONSE: Petitioner admits Request No. 9.

REQUEST TO ADMIT GENUINENESS OF DOCUMENTS

1. Exhibit A is a true, genuine and accurate copy of the April 10, 2008 letter and data Hamman Farms submitted to Illinois EPA as its request for an agronomic rate determination.

RESPONSE: Petitioner denies Request No. 1.

2. Exhibit B is a true, genuine and accurate copy of the May 1, 2008 letter issued by Illinois EPA stating IEPA's agronomic rate determination for Hamman Farms.

RESPONSE: Petitioner admits Request No. 2.

Respectfully submitted,

UNITED CITY OF YORKVILLE

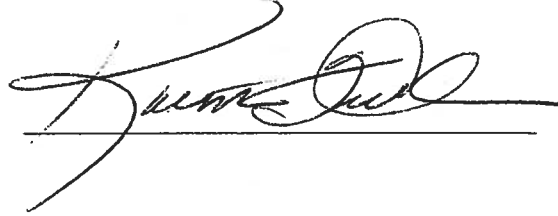
By: 

(One of Its Attorneys)

Dated: January 14, 2011
Thomas G. Gardiner
Michelle M. LaGrotta
Gardiner Koch Weisberg & Wrona
53 W Jackson Blvd., Ste. 950
Chicago, IL 60604
(312) 362-0000
Law Firm ID: 29637

VERIFICATION

Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the Petitioner's Responses to Respondent's Request for Admission of Fact and Genuineness of Document are true and correct except as to matters herein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be "Katherine D. [unclear]".

