

WILLIAM A. YODER

McLean County State's Attorney

Hannah R. Eisner
First Assistant State's Attorney

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April 27, 2011

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

RECEIVED
CLERK'S OFFICE
MAY 06 2011
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

Re: PCB 11-60 – Third Party Pollution Control Facility Siting Appeal

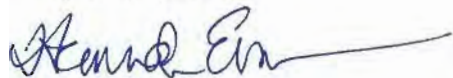
Dear Mr. Therriault,

Enclosed please find a Response to Motion to Strike and Dismiss and a Second Certificate of Record on Appeal for filing in the above captioned cause. I inadvertently omitted one document from the Record I filed previously. I have provided nine copies of that document pursuant to 35 Ill. Adm. Code 107.302.

Please do not hesitate to contact me if you have any question about this filing.

Thank you for your assistance.

Very truly yours,



Hannah R. Eisner
Assistant State's Attorney, Civil Division

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
MAY 06 2011
STATE OF ILLINOIS
Pollution Control Board

AMERICAN DISPOSAL SERVICES OF)
ILLINOIS)

Petitioner)

VS)

No. PCB 11-60

COUNTY BOARD OF MCLEAN COUNTY,)
ILLINOIS, HENSON DISPOSAL, INC., and)
TKNTK, LLC,)

Respondents)

ORIGINAL

RESPONSE TO MOTION TO STRIKE AND DISMISS

Now comes, the Respondent, County Board of McLean County by its attorney, Hannah Eisner, and makes the following response to the Motion to Strike and Dismiss filed by Henson Disposal, Inc. and TKNTK, LLC:

The application was not automatically approved

1. The County Board disagrees with Henson's argument that the siting application was automatically approved on February 4, 2011.
2. Section 39.2 of the Environmental Protection Act, 415 ILCS 5/39.2, provides:
"... If there is no final action by the county board... within 180 days after the date on which it received the request for site approval, the applicant may deem the request approved."
3. Courts interpreting this section of the Environmental Protection Act have found that applicants who continue to participate in the approval process after the 180 days have expired are considered to have waived their right to approval within that time frame.
4. The 4th District Appellate Court considered this issue in a pair of cases, *Citizens Against the Randolph Landfill v Pollution Control Board*, 178 Ill. App. 3d 686, 695-696 and *McLean County Disposal v County of McLean* 207 Ill. App. 3d. 477,488. The Court found in *Citizens Against the Randolph Landfill* and affirmed in *McLean County Disposal*, that by participating in public hearings, without objection, and filing briefs after the deadline dates the applicant waived its right to a decision by the County Board within 180 days.

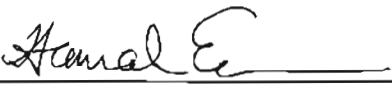
5. The court in *City of Rockford v County of Winnebago* 186 Ill. App. 3d. 303,311 followed the rule in *Citizens Against Randolph Landfill*, and found the City of Rockford had waived compliance with the 180 day deadline when it continued to participate in hearings and failed to object when it had the opportunity to do so.
6. The cases cited clearly establish that applicants must affirmatively assert their right to a decision within 180 days by objecting and refusing to participate and any proceedings after the deadline has passed.
7. Henson did not affirmatively assert its right to a decision within 180 days and it willingly participated in the approval process after the 180 day deadline had passed.
8. Henson was asked to work with County staff to address concerns raised by members of the Pollution Control Site Hearing Committee during the public hearing on December 9, 2010. Specifically Henson was asked to clarify which corporate entity would be responsible for the operations of the pollution control facility and provide evidence of financial means to clean up the site following closure for review at the next meeting of the committee scheduled for February 3, 2011. (Transcript, C-107 – 109, C-124 – 126 attached hereto as Exhibit A).
9. The record does not reflect that Henson made any objection to providing information that would be considered one day before the 180 deadline. Henson also subsequently executed a Performance Agreement to guarantee funds for clean up of the site on February 15, 2010. (Record C-155-161 attached hereto as Exhibit B).
10. The Pollution Control Site Hearing Committee meeting scheduled for February 3, 2011 was cancelled due to inclement weather and was rescheduled for February 15, 2011 immediately before the County Board meeting at which the application was to be considered. Henson attended the committee meeting on February 15, 2011 and confirmed that certain conditions regarding emergency response and fire protection were acceptable. (Minutes of Pollution Control Site Hearing Committee, C-168-170 attached hereto as Exhibit C)
11. Henson's actions clearly indicate that it did not intend to assert its right to a decision within 180 days and by failing to assert that right Henson waived it.

ADS lacks standing

12. The County Board concurs with the arguments raised by Henson Disposal, Inc. and TKNTK, Inc. with respect to ADS' standing to file this appeal and joins in that portion of the Motion to Strike and Dismiss.

Wherefore the McLean County Board respectfully requests that the Motion to Strike and Dismiss be denied as to the claim that the application was approved automatically on February 4, 2011, but that it be granted as to the claim that ADS lacks standing.

McLean County Board

By: 
It's Attorney

Hannah R. Eisner ARDC No. 6192101
McLean County State's Attorney's Office
115 E. Washington Street, Room 401
Bloomington, IL 61701
Ph. (309) 888 5110
Fax (309) 888 5111

1 spilled, you know, we'll clean that up through an
2 absorbant.

3 MR. GORDON: Thank you.

4 Thank you, Mr. Chairman.

5 CHAIRMAN SORENSEN: Thank you.

6 Mr. Segobiano.

7 MR. SEGOBIANO: Thank you, Mr. Chairman.

8 First of all, I think we need to
9 compliment these gentlemen for operating a
10 business out of their own back pocket. It's kind
11 of unusual in this day and age.

12 But I guess what I need for
13 clarification, and I guess really for legal term,
14 this is -- a special use is being requested by
15 Hansen Disposal, and we're sitting here listening
16 to two different entities, Henson Disposal and
17 Kirk C & D.

18 Are they one and the same operation, or
19 are they two separate operations? Are they
20 two -- will they be divided? I mean, I guess we
21 need some clarification, at least I do, as a
22 member here of what are we talking about? Which
23 company, and what company is going to handle
24 which part.

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EXHIBIT A

1 THOMAS KIRK: I started Kirk C & D
2 Recycling as its own business in '98. We
3 acquired or purchased Henson Disposal four years
4 ago, and Henson Disposal is doing business as
5 Kirk C & D Recycling. That's how we used to
6 operate, underneath one business.

7 Now we are actually separated and are two
8 separate businesses, but most people know us as
9 Kirk C & D Recycling, and a lot of my experience
10 was from when we were Kirk C & D Recycling. So
11 this will operate as -- starting January 1st,
12 Henson will operate as its own business with its
13 own employees and its own location.

14 MR. SEGOBIANO: And it will be a separate
15 entity from Kirk?

16 THOMAS KIRK: Correct. It actually
17 already is now. The paperwork is all done.
18 We're just waiting for "July 1st" to actually
19 start writing the checks that way.

20 MR. SEGOBIANO: Thank you.

21 CHAIRMAN SORENSEN: Like I say, I
22 appreciate the clarification. That was on my
23 list, too.

24 And I guess I'm going to ask that staff

1 make sure that we have all the -- all the
2 documents correct with all the right company
3 names, and that we have everything prior to our
4 February 3rd session of the Committee. Is
5 that -- you may already have it all right. I'm
6 not sure. Okay. Thanks.

7 MR. SEGOBIANO: Mr. Chairman, if I may
8 add to that, so if they're going to be separate
9 entities, are they on the same site?

10 THOMAS KIRK: The -- the equipment will
11 be stored --

12 MR. SEGOBIANO: The operations.

13 THOMAS KIRK: Yeah. Kirk C & D Recycling
14 really doesn't have, you know, I'm really the
15 business. I'm Kirk C & D Recycling. So Henson
16 Disposal will basically just be out at this
17 property.

18 MR. SEGOBIANO: I guess I'm going to go
19 back to Mr. Gordon's question about monitoring.
20 If they're going to be on the same site, I don't
21 think we're going to have a wall down between the
22 two businesses, are we?

23 THOMAS KIRK: No.

24 MR. SEGOBIANO: So what -- we will be

1 monitoring Henson Disposal and not Kirk's
2 operation? I'm asking for clarification.

3 THOMAS KIRK: Kirk C & D Recycling will
4 have nothing to do with this operation.

5 MR. SEGOBIANO: But they'll be on the
6 same site?

7 THOMAS KIRK: The equipment will be
8 stored if it's not on-site.

9 MR. SEGOBIANO: And it will be separate
10 employees --

11 THOMAS KIRK: Correct.

12 MR. SEGOBIANO: -- performing separate
13 duties?

14 THOMAS KIRK: Yes. Kirk C & D Recycling
15 will have one employee starting January 1st, and
16 that will be me. We just do on-site demolition,
17 you know, services.

18 MR. SEGOBIANO: Thank you.

19 CHAIRMAN SORENSEN: The recycling
20 contracts, both the material coming in and the --
21 I'm just going say the recycled product going
22 out, those contracts are going to be in which
23 company's name?

24 THOMAS KIRK: That will be in Henson

1 CHAIRMAN SORENSEN: Other questions from
2 the Committee for Mr. Kirk?

3 (No response.)

4 CHAIRMAN SORENSEN: All right. Before we
5 proceed with other testimony, I think -- I think
6 on the topic of the separate corporate entities
7 involved in this thing and -- and what -- and
8 you've done a good job of clarifying that, the
9 reason we're having this hearing is while this
10 isn't a large landfill type operation, there is
11 some -- I think there's probably some public
12 concern.

13 There's certainly a diligence requirement
14 on us to make sure that the corporate entity or
15 the business entity that will be operating this
16 facility has the financial means both to operate
17 the facility and the financial means to -- to set
18 aside whatever might be appropriate to make sure
19 that the land is not permanently scarred, you
20 know, should anything happen to the company or
21 should you choose to cease operations on the
22 site.

23 For that reason, I think it's
24 appropriate, and you can work with our legal

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1 counsel, for you to provide some level of
2 documentation regarding the corporate and the
3 business entity that will be running this
4 facility and be financially responsible for
5 reclaiming the property if ever necessary.

6 If that meets -- am I missing anything, I
7 guess, from the Committee's perspective? All
8 right.

9 MS. EISNER: And, Mr. Chairman, as a part
10 of this process, the County Code requires that
11 there be a Host Agreement as part of the
12 approval. That typically involves some payment
13 of some what we call tipping fee and also can
14 require that there be security posted for, you
15 know, covering any site cleanup or anything of
16 that nature.

17 CHAIRMAN SORENSEN: So my perspective on
18 that is that I think it would be appropriate that
19 sometime between now and February 3rd County
20 staff work with the Applicant on the details of
21 what would be incorporated into that Host
22 Agreement and those kinds of things.

23 And that's not to say that our Committee
24 wouldn't choose to -- here's a technical term for

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1 you -- that our Committee won't choose to mess
2 with that at the February 3rd meeting, but I
3 think at least if we came to that meeting with a
4 structured, nearly done kind of an agreement that
5 would be appropriate.

6 All right. Any other questions from the
7 Committee of Mr. Kirk or the Applicant?

8 (No response.)

9 CHAIRMAN SORENSEN: With that, I'm going
10 to invite anyone present who may have questions
11 of the Applicant to please make themselves known
12 to the Committee at this time.

13 All right, then.

14 JENNIFER SACKETT-POHLENZ: Mr. Chairman.

15 CHAIRMAN SORENSEN: I'm sorry. Please,
16 come. Please have a seat. If you would, please,
17 introduce yourself, name and address, and then we
18 shall swear or affirm you, whichever you prefer.

19 JENNIFFER SACKETT-POHLENZ: Mr. Chairman,
20 I'm not here to testify. I just wanted to file
21 an appearance to show that we are participating
22 in the process, but we're not asking questions.

23 I'm an attorney. My name is Jennifer
24 Sackett-Pohlenz. I'm here representing American

Member Gordon, Vice-Chairman, presented the following:

PERFORMANCE AGREEMENT

This Performance Agreement ("Performance Agreement") is entered into as of the _____ day of February, 2011, by and among Henson Disposal, Inc., P.O. Box 1058, Bloomington, Illinois 61702, as Operator, TKNTK, LLC as Owner, and the County of McLean, Illinois.

WHEREAS, Henson Disposal, Inc. desires to procure from the County of McLean, as required by Illinois Environmental Protection Act Section 39.2, a siting approval for the construction and operation of a pollution control facility to sort and recycle building construction materials and process landscape materials at 2148 Tri Lakes Road, Bloomington, Illinois during the period beginning on the effective date of any EPA Permit and terminating on the earlier of the expiration or revocation of any such permit.

WHEREAS, TKNTK, LLC owns the property on which Henson Disposal, Inc. proposes to operate the aforesaid pollution control facility and TKNTK, LLC will enter into a lease agreement with Henson Disposal, Inc. for the purpose of providing a location for the pollution control facility

WHEREAS, as a condition of granting Henson Disposal, Inc. approval for siting the pollution control facility, the County of McLean will require Henson Disposal, Inc. to agree and provide appropriate security, to guarantee the removal of all construction and landscape materials, rubbish, debris, temporary structures, tools and equipment used in the recycle operation in the event Henson Disposal, Inc. ceases to conduct any of the activities as permitted by the County under the siting approval or it's E.P.A. permit,

NOW, THEREFORE, the parties agree as follows:

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A Henson Disposal, Inc. shall well and true perform all and singular the conditions and provisions attached to the approval for the Pollution Control Facility Siting by the County of McLean, State of Illinois.

B. Henson Disposal, Inc. shall, prior to the effective date of any permit issued by the Illinois Environmental Protection Agency for operation of the the Pollution Control Facility and commencement of construction, deliver to the County an irrevocable letter of credit equal to One Hundred Twenty Thousand Dollars (\$120,000.00) in a form acceptable to the County or, some alternate form of security acceptable to the County, which security shall remain in place until such time as Henson Disposal, Inc. ceases to conduct any of the activities permitted by the County under the siting approval or it's E.P.A. permit. The County may draw upon the letter of credit or other security upon the occurrence of either of the following two events: a) Henson Disposal, Inc. ceases to do business for any reason and fails to appropriately clean up all rubbish, debris, excess material, temporary structures, tools and equipment after notice and opportunity to cure as provided in Paragraph C b). Cancellation or non-renewal of the letter of credit or other security provided by Henson Recycling, Inc. to guarantee the clean up and failure of Henson to provide the County a commitment to renew or extend its letter of credit, or other agreed upon security provided in lieu of a letter of credit, within sixty (60) days of the date such letter of credit or other security will expire. In that event, County may draw all of the funds available under the letter of credit or other security and deposit them into an account to be held in escrow until such time Henson Disposal, Inc. ceases to conduct any of the activities permitted by the County under the siting approval or its E.P.A. permit for any reason and fails to appropriately clean up all rubbish, debris, excess

material, temporary structures, tools and equipment after notice and opportunity to cure as provided in Paragraph C. The irrevocable letter of credit or funds in any escrow account established hereunder may be applied against any expenses related to the removal and cleanup of any rubbish, debris, excess material, temporary structures, tools and equipment from the recycled property

C. Default and Cure Rights. If Henson Disposal, Inc. fails to appropriately clean up all rubbish, debris, excess material, temporary structures, tools and equipment within ninety (90) days of ceasing to conduct any of the activities as permitted by the County under the siting approval or it's E.P.A. permit. County shall give Henson Disposal written notice of its intent to perform any necessary clean up and to draw upon the letter of creditor escrow account to offset the expense of doing so. Any such notice shall identify the rubbish, debris, excess material, temporary structures, tools and/or equipment to be removed and shall specific a date by which County will perform the clean up in default of Henson Disposal doing so, which date shall not be less than thirty (30) days of the date of said notice. County may enter onto Henson Disposal property and perform the clean up if Henson Disposal has not initiated and made substantial progress toward clean up of the items listed in the notice by the date specified with no further notice to Henson Disposal, Inc.

D. The amount of security is based on an estimated cost of clean up determined as follows. There is maximum storage capacity on the site for 3500 yards (1225 tons) of construction recycling debris. The cost of transporting the material from the site to the nearest landfill was estimated at \$65.00 per ton (\$55.00 tipping fee and \$10.00 trucking fee) bringing the total potential clean up cost for debris construction recycling operation

to \$79,625.00. The estimate of cleaning up the landscape processing operations was \$40,000.00 based on Henson Recycling, Inc. actual cost to clear the total area where those materials are stored; making the total estimated cost to clean up the entire site \$119,625.00, rounded to \$120,000.00. The parties agree that the amount of the security will be reviewed one year after Henson Recycling, Inc commences operation of the pollution control facility to determine if the amount should be increased or decreased taking into consideration any increase in tipping fees, transportation costs, disposal cost for landscape waste and taking into consideration the average amount of material on the property. The amount of security shall be reviewed every five years thereafter to insure that it is based on the then current tipping fees, transportation costs and landscape waste disposal costs; provided however that the amount of security shall never be less than \$120,000.00, unless the average amount of material is less than what is assumed and in such case the requisite security shall be adjusted accordingly.

E. The requirement of security is not intended to and will not limit Henson Recycling, Inc.'s liability to pay for the full cost any clean up required and Henson Recycling shall be responsible to reimburse County for any amounts by which the cost of clean up exceed the funds available under the letter of credit, escrow account or any other security available at the time of clean up.

F. TKNTK, LLC acknowledges that as the property owner, it will be responsible for removal of all construction and landscape materials, rubbish, debris, temporary structures, tools and equipment used in the recycle and landscape processing operation from the site at such time as Henson Disposal, Inc ceases to conduct any of the activities permitted by the County under the siting approval or it's E.P.A. permit. TKNTK, LLC

agrees that it will clean up the site upon receipt of notice from the County that Henson Disposal, Inc has not completed the clean up of the property after having been given notice to do so. TKNTK,LLC agrees that County may make demand on it to perform the clean up in lieu of or prior to drawing upon the security provided pursuant to paragraph B.

G. This agreement shall remain in full force and effect until Henson Disposal, Inc. ceases conducting both the construction material recycling and landscape processing as allowed by the county siting approval.

H. Additional Terms.

a. The parties and their counsel have reviewed this Agreement and, accordingly, the normal rule of construction to the effect that any ambiguities are to be construed against the drafting party shall not be employed in the interpretation of this Agreement.

b. This Agreement may be amended, altered or terminated, in whole or in part, only by a writing signed by all Parties.

c. The Parties agree to bear their own expenses, attorney fees, and costs for all matters related to the Lawsuit, and the negotiation and consummation of this Agreement and settlement.

d. Each of the Parties hereto understands and expressly agrees that this Agreement shall bind and benefit their directors, officers, owners, shareholders, trustees, administrators, partners, agents, employees, servants, attorneys, insurers,

underwriters, successors, assigns, predecessors, parents, subsidiaries, affiliates, and divisions, representatives, and all persons or entities formerly in any of those positions, and their heirs, executors, administrators, agents, representatives, successors and assigns, and attorneys, and any persons or entities formerly in any of those positions, as appropriate.

e. This Agreement shall be governed, construed and enforced according to the laws of the State of Illinois.

f. This Agreement represents the full agreement of the Parties, and supercedes all prior and contemporaneous agreements and understandings, if any, relating to the substance hereof between or among them. This is a fully integrated document.

g. Each of the Parties expressly represents and warrants that (i) it is validly existing and in good standing under the laws of its respective state of incorporation, (ii) it has the full right power, legal capacity and authority, without the consent of any other person, entity or governmental authority, to execute, deliver and carry out the terms of this Agreement and to consummate the transactions contemplated hereby and thereby, (iii) all corporate and other actions required to be taken by it to authorize the execution, delivery and performance of this Agreement (and all documents and agreements necessary to give effect to the provisions of this Agreement) have been duly and properly taken or obtained, and (iv) this Agreement (and all documents and agreements necessary to give effect to the provisions of this Agreement) is the lawful, valid and legally binding obligation of such Party, enforceable against it in accordance with its terms.

h. This Agreement may be executed in counterparts, each of which when so executed shall be an original, but all of said counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written.

THIS AGREEMENT is effective 2-15-2011

HENSON DISPOSAL, INC.

COUNTY OF McLEAN

By: Tom Kirk
Its President

By: Matt Souma
Its Co. Board Chairman

TKNTK, LLC

By: Tom Kirk
Its President

Members Gordon/Segobiano moved the County Board approve a Request for Approval of Performance Agreement between the County of McLean and Henson Disposal, Inc. - Building and Zoning. Acting-Clerk Nelson shows all Members present voting in favor of the Motion except Member Wollrab who voted present. Motion carried.

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Member Gordon, Vice-Chairman, presented the following:



Illinois
Environmental
Protection Agency

Bureau of Land
1021 North Grand Avenue East
Box 19276
Springfield, IL 62794-9276

CERTIFICATION OF SITING APPROVAL (LPC-PA8)

Name of Applicant for Siting: Henson Disposal, Inc.

Address of Siting Applicant: 2148 Tri Lakes Road Bloomington, at 510 East Hamilton Rd.,
Bloomington, and at 2014 Bunn St. Bloomington, IL

Name of Site: Henson Disposal Recycling Center Site Number (if assigned): _____

Site Information: Nearest Municipality: Bloomington IL County: McLean

Unit of local government from which siting approval was obtained: McLean County

1. On 2-15, 2011, the County Board of
(Date) (Governing body of county or municipality)

McLean County approved the site location suitability of Henson Disposal Rec. Center
(County or municipality) (Name of site)
as a new pollution control facility in accordance with Section 39.2 of the Illinois Environmental
Protection Act, Ill. Rev. Stat., ch. 111 1/2, Section 1039.2.

2. The Illinois EPA may need to verify the information on this form, please indicate a person from
the unit of local government ("siting authority") whom a representative from the Illinois EPA
may contact regarding this approval:

Philip Dick, Director, Department of Building and Zoning, 309-888-5160
(Name, title, and telephone number)

3. Identify the type of activity(ies) for which local siting approval was obtained:
waste storage () , sanitary landfill () , waste disposal () , waste transfer () ,
waste treatment () , waste incinerator () .

4. Did the local siting authority approve the acceptance of special waste? Yes No
Did the local siting authority approve the acceptance of hazardous waste? Yes No

5. Attached to this certification is a true and correct statement of the legal descriptions of the site
as it was approved by the aforementioned local siting authority. Yes No
(Note. A legal description must be attached to this document, by the local siting authority, to
make the application complete)

IL 532 1429
LPC 216 Rev. March 2005

This Agency is authorized to require this information under Illinois Revised Statutes, 1979,
Chapter 111 1/2, Section 1039. Disclosure of this information is required under that Section.
Failure to do so may prevent this form from being processed and could result in your application
being denied. This form has been approved by the Forms Management Center.

Minutes of the Pollution Control Site Hearing Committee

The Pollution Control Site Hearing Committee of the McLean County Board met on Tuesday, February 15, 2011 at 9:00 a.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Sorensen, Members Gordon, Cavallini, Soeldner, Wendt, and Segobiano

Members Absent: None

Other Board Members Present: None

Staff Present: Mr. Terry Lindberg, County Administrator, Mr. Bill Wasson, Assistant County Administrator, Ms. Hannah Eisner, First Assistant State's Attorney, Ms. Diana Hospelhom, Recording Secretary, County Administrator's Office

Department Heads/
Elected Officials
Present:

Mr. Phil Dick, Director Building and Zoning

Others Present:

Mr. Michael Brown, Director of the Ecology Action Center, Mr. Tom Kirk, Henson Disposal, Inc, Mr. Rich Marvel, Attorney for Henson Disposal, Inc, Mr. Josh Freeman, Intern, Administration.

Chairman Sorensen called the meeting to order at 9:00 a.m. He informed the Committee that the purpose for this meeting is to consider follow up items requested by the Pollution Control Site Hearing Committee.

Chairman Sorensen asked, before action is taken on these items, if there were any questions or comments regarding any of the materials to be presented.

Mr. Wendt noted that in the agreement there is a 60 day notice on the expiration of the letter of credit. He wanted to confirm that the County would be notified if the letter of credit was not renewed.

Ms. Hannah Eisner, First Assistant State's Attorney, reported that unless the County is notified of a new letter of credit or other security, the County can draw down on the letter of credit in place at that time.

Mr. Wendt asked when the costs will be evaluated. Ms. Eisner advised that the costs will be evaluated a year after Henson Disposal commences operations and every five

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EXHIBIT C

years after that. She advised that at that time it will be determined if the \$65.00 tipping fees (\$10.00 trucking fees \$55.00 host fee) have changed.

Mr. Soeldner noted his appreciation to the Fire Department and Emergency Management Agency for the following suggestions:

- All Structures have a Fire Detection System installed and a monitoring service in place.
- A Knox-Box key entry system is installed.
- A fire extinguisher vendor asses the property and suitable fire extinguisher is installed.
- A flammable liquid storing cabinet be available in the shop area.
- A suitable First Aid kit is available on the property including an Automated Electrical Defibrillator.

Chairman Sorensen confirmed with Mr. Kirk that the suggestions from the Fire District and EMA were acceptable. Mr. Kirk responded that they were.

Motion by Gordo/Segobiano to close the Hearing
of the Pollution Control Site Hearing Committee.
Motion carried.

Chairman Sorensen continued with the first Action Item, the Findings of Fact and Recommendation of the McLean County Pollution Control site Hearing Committee.

Motion by Cavallini/Wendt to recommend approval
of Findings and Fact and Recommendations of the
McLean County Pollution control Site Hearing Committee.
Motion carried.

Chairman Sorensen presented the request for approval of the Performance Agreement between the County of McLean and Henson Disposal, Inc. – Building and Zoning.

Motion by Wendt/Soeldner to recommend approval
of the Performance Agreement between the County
of McLean and Henson Disposal, Inc. – Building and Zoning.
Motion carried.

Chairman Sorensen stated that the next item for action is the application of IEPA Certification of Siting Approval (LPC-PA8).

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Minutes of the Pollution Control Site Hearing Committee
February 15, 2011
Page Three

Motion by Gordon/Segobiano to Recommend Approval
of the Application of IEPA Certification of Siting Approval
(LPC-PA8).
Motion carried.

Chairman Sorensen presented the Host Agreement between the County of McLean and
Henson Disposal, Inc.

Motion by Wendt/Cavallini to Recommend Approval
of Host Agreement between the County of McLean
and Henson Disposal, Inc.
Motion carried.

Chairman Sorensen thanked the Clerk, Council and Staff for all the work involved. He
noted that the County Board will address this matter at the next regularly scheduled
meeting. He asked if there were any other items to come before the Committee.
Hearing none, Chairman Sorensen adjourned the meeting at 9:07 a.m.

Respectfully submitted,

Diana J. Hospelhorn
Recording Secretary

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C-170

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AMERICAN DISPOSAL SERVICES OF)
 ILLINOIS)
) Petitioner)
))
 VS)
))
))
 COUNTY BOARD OF MCLEAN COUNTY,)
 ILLINOIS, HENSON DISPOSAL, INC., and)
 TKNTK, LLC,)
) Respondents)

RECEIVED
 CLERK'S OFFICE
 MAY 06 2011
 STATE OF ILLINOIS
 Pollution Control Board

No. PCB 11-60

ORIGINAL

SECOND CERTIFICATE OF RECORD ON APPEAL

The Minutes of the Pollution Control Site Hearing Committee were inadvertently omitted from the record prepared and submitted on April 28, 2011 and are being submitted now to complete the record. The Index is being revised to reflect the additional documents and to indicate the location of the notice of the meeting within documents previously submitted:

Index of the Second Record

- Notice of the Pollution Control Site Hearing Committee meeting 2/15/2010 C146
- Minutes of the Pollution Control Site Hearing CommitteeC168- C170

I do further certify that the documents enclosed and described in the Index of the Second Record are true and accurate copies of the documentation deposited in the official files and records of this office regarding the application for site location filed by Henson Disposal, LLC with the County Clerk on August 9, 2010.

Dated this 7th day of April, 2011

Kathy Michael
 McLean County Clerk

Minutes of the Pollution Control Site Hearing Committee

The Pollution Control Site Hearing Committee of the McLean County Board met on Tuesday, February 15, 2011 at 9:00 a.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Sorensen, Members Gordon, Cavallini, Soeldner, Wendt, and Segobiano

Members Absent: None

Other Board Members Present: None

Staff Present: Mr. Terry Lindberg, County Administrator, Mr. Bill Wasson, Assistant County Administrator, Ms. Hannah Eisner, First Assistant State's Attorney, Ms. Diana Hospelhorn, Recording Secretary, County Administrator's Office

Department Heads/
Elected Officials
Present:

Mr. Phil Dick, Director Building and Zoning

Others Present:

Mr. Michael Brown, Director of the Ecology Action Center, Mr. Tom Kirk, Henson Disposal, Inc, Mr. Rich Marvel, Attorney for Henson Disposal, Inc, Mr. Josh Freeman, Intern, Administration.

Chairman Sorensen called the meeting to order at 9:00 a.m. He informed the Committee that the purpose for this meeting is to consider follow up items requested by the Pollution Control Site Hearing Committee.

Chairman Sorensen asked, before action is taken on these items, if there were any questions or comments regarding any of the materials to be presented.

Mr. Wendt noted that in the agreement there is a 60 day notice on the expiration of the letter of credit. He wanted to confirm that the County would be notified if the letter of credit was not renewed.

Ms. Hannah Eisner, First Assistant State's Attorney, reported that unless the County is notified of a new letter of credit or other security, the County can draw down on the letter of credit in place at that time.

Mr. Wendt asked when the costs will be evaluated. Ms. Eisner advised that the costs will be evaluated a year after Henson Disposal commences operations and every five

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Minutes of the Pollution Control Site Hearing Committee
February 15, 2011
Page Three

Motion by Gordon/Segobiano to Recommend Approval
of the Application of IEPA Certification of Siting Approval
(LPC-PA8).
Motion carried.

Chairman Sorensen presented the Host Agreement between the County of McLean and
Henson Disposal, Inc.

Motion by Wendt/Cavallini to Recommend Approval
of Host Agreement between the County of McLean
and Henson Disposal, Inc.
Motion carried.

Chairman Sorensen thanked the Clerk, Council and Staff for all the work involved. He
noted that the County Board will address this matter at the next regularly scheduled
meeting. He asked if there were any other items to come before the Committee.
Hearing none, Chairman Sorensen adjourned the meeting at 9:07 a.m.

Respectfully submitted,

Diana J. Hospelhorn
Recording Secretary

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CERTIFICATE OF SERVICE

RECEIVED
CLERK'S OFFICE
MAY 06 2011
STATE OF ILLINOIS
Pollution Control Board

The undersigned certifies that she mailed the a copy of a Response to Motion to Strike an Dismiss and Second Certifcate of Record on Appeal to the following named individuals by placing same in an envelope to the address indicated and depositing said envelope in the United States Mail, first class postage fully prepaid, at or about the hour of 5:00 p.m., this 4th day of May, 2011:

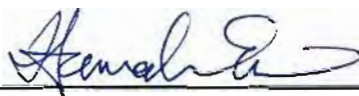
Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

Jennifer J. Sackett Pohlenz
Querry and Harrow, Ltd.
175 W. Jackson, Ste. 1600
Chicago, IL 60604

ORIGINAL

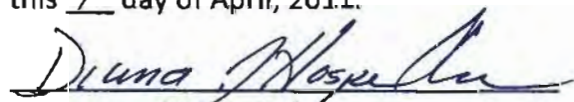
Amy L. Jackson
Rammelkamp Bradney, P.C.
232 West State Street
Jacksonville, IL 62650

Richard T. Marvel
Attorney at Law
202 N. Center Street, Ste. 2
Bloomington, IL 61701



Hannah R. Eisner

Subscribed and sworn to before me
this 4th day of April, 2011.



Notary Public

