

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARTIN MAGGIO)	
)	
Petitioner,)	
)	
vs.)	PCB 13-10
)	(Pollution Control Facility Siting Appeal)
COUNTY OF WINNEBAGO,)	
WINNEBAGO COUNTY BOARD and)	
WINNEBAGO LANDFILL COMPANY,)	
LLC,)	
)	
Respondents.)	

FIRST SET OF INTERROGATORIES OF RESPONDENT, WINNEBAGO LANDFILL COMPANY, LLC, DIRECTED TO PETITIONER, MARTIN MAGGIO

NOW COMES Respondent, WINNEBAGO LANDFILL COMPANY, LLC, by and through its attorneys, Charles F. Helsten and George Mueller, and hereby requests that Petitioner, Martin Maggio, (“Maggio”) answer under oath, in accordance with 35 IAC 101.620, the following Interrogatories, within twenty-eight (28) days from the date upon which these Interrogatories were served:

DEFINITIONS

1. Identify.

a. When used with reference to an individual (or multiple individuals) shall require a statement of the individual’s full name; present and/or last known position, employment, job title and/or business affiliation; business address and telephone number; present or last known residential address and telephone number; and the individual’s relationship, if any, to or with the parties hereto.

b. When used with reference to a business or corporation (or multiple businesses or corporations) shall mean to state the business’s or corporation’s legal name, the names under which it does business, its form (proprietorship, corporation, partnership, association or business trust, etc.), the date and place of its inception and/or incorporation, identification of its principal proprietors, partners or officers, its

present address, its principal place of business and its relationship, if any, to or with the parties hereto.

c. When used with reference to documents shall require a statement of the date thereof, the type of document, the author or speaker, and if different, the signer or signers, the addressee, the substance thereof, their present or last known location or custodian, and all other means of identifying them with sufficient particularity to satisfy the requirements for their identification in a request for their production pursuant to the possession or subject to control of Maggio, state the disposition that was made of it, the reason for such disposition, and the date thereof.

d. When used with reference to any communication, meeting, act, occurrence, statement or conduct (hereinafter collectively "act") requires you to:

- (i) describe the substance of the event or events constituting such act, and state the date when such act occurred;
- (ii) identify each and every person participating in such act;
- (iii) identify all other persons present when such act occurred;
- (iv) state whether any minutes, notes, memoranda, accounts, statements, agreements, or documents relating to the act was made;
- (v) state whether such record now exists; and
- (vi) identify the person presently having possession, custody or control of such record.

2. Relating To. "Relating to" as used herein with reference to a subject shall mean both of the following:

a. Containing, comprising, consisting of, constituting, composed of, stating, setting forth or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject; and

b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

3. Document. "Document" shall mean all documents, objects and tangible things contemplated by the Illinois Code or the Illinois Administrative Code, including

every original (and any copy of any original and any copy which differs in any way from any original) of every writing of every kind or description, whether handwritten, typed, drawn, sketched, or printed, including, without limitation, computer-generated or maintained data or reports, books, records, papers, pamphlets, brochures, circulars, plans, correspondence, emails, communications, telegrams, memoranda, notes, logs, notebooks, worksheets, reports, lists, analysis, appointment books, diaries, telephone bills and toll call records, expense reports, commission statements, confirmation statements, checkbooks, cancelled checks, receipts, contracts, agreements, instruments, assignments, applications, offers, acceptances, written memorials of oral communications, photographs, photographic slides or negative films, digital images, digital moving images, and film strips to which Maggio now has or has had access to in the past.

4. Communication. "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identity of person(s) to whom and by whom it was made (see "1" above), the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

5. All and Any. As used herein "all" refers to any and all, and the term "any" likewise refers to any and all.

6. And / Or. "And" as well as "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Interrogatory any documents, acts or communications which might otherwise be construed to be outside its scope.

7. Application. "Application" shall mean the Application of Respondent, Winnebago Landfill Company, LLC to the Winnebago County Board for site location approval of a vertical and horizontal expansion of its existing hazardous waste landfill located in Winnebago County, Illinois.

8. County. "County" shall mean the Winnebago County Board, any and all employees of Winnebago County, any and all employees of the Winnebago County Board, any and all authorized representatives of Winnebago County and any and all authorized representatives of the Winnebago County Board. "County" also shall mean any divisions, departments, or agencies that are part of, or operate under, Winnebago County government.

9. Any and all capitalized terms not defined herein should be ascribed the meanings given them in the Petition for Review.

INSTRUCTIONS

1. Any word written in the singular shall be construed as plural and any word written in the plural shall be construed as singular when necessary to facilitate complete answers.

2. All information requested is from September 1, 2011, to the date of compliance with this request, unless otherwise specifically indicated. If the answer is not uniformly applied to that entire period, each change within the period is to be indicated with the date of such change.

3. Your answer to each interrogatory should include all knowledge within your custody, possession or control. Where facts are set forth in your answers or portions thereof are supplied upon information and belief rather than actual knowledge, so state and specifically describe or identify the source or sources of such information and belief. If any estimate can reasonably be made in place of the unknown information, set forth your best estimate, clearly designated as such, in place of unknown information, and describe the basis upon which the estimate is made. If you cannot answer the interrogatory in full after exercising due diligence to secure the information requested, so state and answer to the fullest extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portion.

4. To the extent any interrogatory is objected to, set forth all reasons therefore. If you claim privilege as a ground for not answering any interrogatory in whole or in part, describe the factual basis for your claim of privilege, including all relevant dates and persons involved, in sufficient detail so as to permit the Pollution

Control Board to adjudicate the validity of the claim. If you object in part to any interrogatory, answer the remainder completely.

5. Concerning any and all documents which you are asked to identify in these Interrogatories that you do not identify on the grounds of any type of privilege, or for any other reason, indicate and describe each document withheld by date, author(s), addressee(s), recipient(s) or distribute(s), title, type of document (e.g., memorandum, letter, report), location of its creation, present location of the document, identity of any person to whom it has already been revealed, identity of any person or entity who possesses or has custody of it, identity of any person or entity who possesses or has previously had custody of it, total number of copies created, the basis upon which it is being withheld, and general subject matter.

6. Where an interrogatory calls for the identification of a document, a true and correct copy of such document may be attached to the response in lieu of describing such documents, provided, however, where an interrogatory answer requires specification of particular words, paragraphs, pages, etc., the same be clearly identified. If in response to any interrogatory you exercise your option under the Illinois Supreme Court Rules to produce business records in lieu of a written response, identify and segregate the specific documents from which the answers to the interrogatory may be derived or ascertained with sufficient specificity to permit the answers to be identified in a document request.

7. To the extent required by the Illinois Supreme Court Rules and/or the Illinois Administrative Code or regulations, you are hereby requested and required to supplement your answers if you obtain or become aware of further responsive information after you serve your answers.

INTERROGATORIES

1. For the period between September 1, 2011, and July 12, 2012, please identify all communications in verbal, written, or electronic form made by Maggio or anyone acting at his request, or on his behalf, to any Winnebago County Board member relating to the application, excepting therefrom communications in the form of official

filings with the County Clerk related to the application and hearing thereon, and with respect to each such communication, please identify:

- A. The date said communication took place;
- B. The person initiating or authoring the communication;
- C. The person or entity receiving the communication;
- D. The substance and content of the communication;
- E. The identity of all others present when such communication was made;
- F. The identity of all others present when such communication was received;
- G. The manner of the delivery of the communication; and,
- H. Whether any record or memorandum of said communication exists. If so, please attach said memorandum or record to your answers to these Interrogatories.

ANSWER:

2. With regard to each Interrogatory and document request made by Respondent in this action, identify each person who supplied information or documents used in preparing your response thereto.

ANSWER:

3. Identify each person you intend to call as a witness at the hearing in this matter and, for each such witness, describe the subject matter of his or her expected testimony at the hearing.

ANSWER:

4. Identify all persons who know of any fact and identify each and every fact related to the allegations in paragraph 6 of your Petition for Review.

ANSWER:

5. Identify all persons who know of any fact and identify each and every fact related to the allegations of paragraph 7 of your Petition for Review.

ANSWER:

6. Identify, with specificity, the owner of any property entitled to statutory Notice pursuant to 415 ILCS 5/39.2(b) that was not properly served with said Notice and, with respect to said owner, identify the location of said owner's property and, with respect to said owner, identify the manner in which service of Notice on said owner was defective or otherwise not in compliance with 415 ILCS 5/39.2(b).

ANSWER:

7. Identify all individuals who informed Maggio that the local siting review procedures, hearings, decision and process individually and collectively were fundamentally unfair and, with respect to each said individual, identify the date Maggio was informed by said individual, whether said information was communicated orally, electronically, or in writing, the substance of said information, and whether or not a

memorandum or record of said information exists. If so, please attach a copy of such memorandum or record to the answers to these Interrogatories.

ANSWER:

8. Please identify each and every member of the County Board who is believed to have pre-judged the application and, with respect to said member, identify all facts that you are aware of which support said belief.

ANSWER:

9. Please identify each and every County Board member who you believe to have had prejudicial ex parte communications with Winnebago Landfill Company, LLC, and any of its' representatives while the application was pending and, with respect to each such County Board member, identify the date or dates of such communications, persons, or entities with whom such communications occurred, the substance of each such communication, whether such communication was oral, electronic, or written and whether a memorandum or record of such communication exists. If a memorandum or record of any such communication exists, please attach a copy of the same to your answers to these Interrogatories.

ANSWER:

Respectfully submitted,

WINNEBAGO LANDFILL COMPANY, LLC,
Petitioner

CHARLES F. HELSTEN and
GEORGE MUELLER, Its Attorneys

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STATE OF ILLINOIS)
)
COUNTY OF LASALLE) SS

AFFIDAVIT OF SERVICE

The undersigned being first duly sworn on oath, states that a copy of the foregoing FIRST SET OF INTERROGATORIES OF RESPONDENT, WINNEBAGO LANDFILL COMPANY, LLC, DIRECTED TO PETITIONER, MARTIN MAGGIO, was served upon the following persons by enclosing copies of same in separate envelopes, addressed as set forth below, and depositing said envelopes in a U.S. Postal Service mailbox in Ottawa, Illinois, on the ____ day of September, 2012, before 5:00 p.m., with all fees thereon fully prepaid.

Michael S. Blazer
Thomas S. Yu
Jeep & Blazer, LLC
24 Hillside Ave., Suite A
Hillside, IL 60162

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601

Dave Kurlinkus
Winnebago County Assistant State's
Attorney
Winnebago County Courthouse
8th Floor
400 West State Street
Rockford, IL 61101

Scott H. Christiansen
Winnebago County Board Chairman
404 Elm Street
Rockford, IL 61101

Subscribed and sworn to before me
this ____ day of September, 2012.

Notary Public

ATTESTATION

STATE OF ILLINOIS)
)
COUNTY OF _____) ss.

MARTIN MAGGIO, being first duly sworn on oath, deposes and states that he is the Petitioner in the above-captioned matter, that he has read the foregoing document, and the answers made herein are true, correct and complete to the best of his knowledge and belief.

MARTIN MAGGIO, Petitioner

SUBSCRIBED and SWORN to before me
this _____ day of _____, 2012.

NOTARY PUBLIC