

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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SEP - 8 2014

STATE OF ILLINOIS
Pollution Control Board

ROXANA LANDFILL, INC.

Petitioner,

vs.

No. PCB 14-1565

VILLAGE BOARD OF THE VILLAGE OF
CASEYVILLE, ILLINOIS;
VILLAGE OF CASEVILLE, ILLINOIS; and
CASEYVILLE TRANSFER STATION, L.L.C.

(Pollution Control Facility Siting
Application)



ORIGINAL

NOTICE OF FILING

TO: Certified Mail – Return Receipt
Requested & U.S. Mail

Village Clerk
Village of Caseyville
909 S. Main Street
Caseyville, Illinois 62232

Certified Mail – Return
Receipt Requested & U.S.
Mail

Mayor of Caseyville
Leonard Black
909 S. Main Street
Caseyville, Illinois 62232

Certified Mail – Return Receipt
Requested & U.S. Mail

Caseyville Transfer Station, L.L.C.
Attn: JOHN P. SIEMSEN,
Registered Agent
290 South Main Pl, STE 101
Carol Stream, IL 60188

PLEASE TAKE NOTICE that on September 8, 2014, we filed with the Illinois Pollution Control Board, (1) this Notice of Filing; and the attached (2) Appearance and (3) Petition for Review of Decision Concerning Siting of a New Pollution Control Facility, Pursuant to 39.2 and 40.1 of the Illinois Environmental Protection Act, copies of which are served upon you.

Dated: September 8, 2014

Respectfully submitted,

Jennifer J. Sackett Pohlenz
CLARK HILL PLC

ROXANA LANDFILL, INC.

150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) | Attorney Registration No. 6225990

By:

One of Its Attorneys

PROOF OF SERVICE

I, Jennifer J. Pohlenz Sackett, an attorney, on oath states that I served the foregoing Notice of Filing, Appearance, and Petition for Review of Decision Concerning Siting of a New Pollution Control Facility, Pursuant to Section 39.2 and 40.1 of the Illinois Environmental Protection Act on the above listed parties in the above manner(s) this 8th day of September, 2014, before the hours of 5:00 p.m.

Jennifer J. Pohlenz Sackett

Notary Public
My Commission expires 12-4-16



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VILLAGE BOARD OF THE VILLAGE OF
CASEYVILLE, ILLINOIS;
VILLAGE OF CASEVILLE, ILLINOIS; and
CASEYVILLE TRANSFER STATION, L.L.C.

No. PCB 14-¹⁵⁻⁶⁵

(Pollution Control Facility Siting
Application)

APPEARANCE

I, Jennifer J. Sackett Pohlenz, hereby file my appearance in this matter on behalf of
Petitioner Roxana Landfill, Inc.

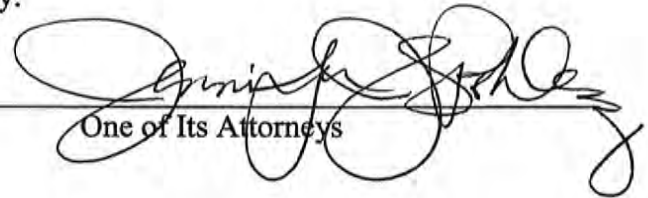
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Attorney Registration No. 6225990

Respectfully submitted,

ROXANA LANDFILL, INC.

By:


One of Its Attorneys

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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VILLAGE BOARD OF THE VILLAGE OF
CASEYVILLE, ILLINOIS;
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CASEYVILLE TRANSFER STATION, L.L.C.

No. PCB 14-¹⁵⁻⁶⁵

(Pollution Control Facility Siting
Application)

**PETITION FOR REVIEW OF DECISION CONCERNING SITING OF A NEW
POLLUTION CONTROL FACILITY, PURSUANT TO SECTIONS 39.2 AND 40.1 OF
THE ILLINOIS ENVIRONMENTAL PROTECTION ACT**

Petitioner Roxana Landfill, Inc., (“Roxana”), by and through its attorneys at Clark Hill PLC, respectfully requests a review and hearing to contest the decision of the Village Board of the Village of Caseyville, Illinois (“Caseyville”) approving the siting application (“Application”) filed by Caseyville Transfer Station, L.L.C. (“Facility”). In further support of this Petition, Roxana states as follows:

1. This Petition is filed pursuant to Section 40.1(b) of the Illinois Environmental Protection Act (“Act”) and Sections 107.200-107.208 of the applicable Illinois Pollution Control Board Regulations. (415 ILCS 5/40.1(b) and 35 IAC 107.200-208).
2. Pursuant to Section 107.208(a), a copy of Caseyville’s written decision is attached to this Petition as **Exhibit A**.
3. Facility proposed a municipal solid waste transfer station on approximately 5 acres over more than one parcel of land stated to be located at the Southwest corner of the intersection of Bunkam Road and the Harding Ditch, in Caseyville. The Facility’s siting proposal was approved, with no conditions, by Caseyville.

4. Pursuant to Section 107.208(b), the following Paragraphs, 5-7, provide a statement as to how Roxana, the filing party, is a proper Petitioner under Section 107.200 of the Pollution Control Board Regulations, because, among other things, Roxana participated in and attended the local site location review public hearing, presented evidence of that hearing, and submitted written comment on the Facility's siting application and the siting process application.

5. Roxana is a company that does business in, including, and not limited to Caseyville. In addition, Roxana does business in St. Clair and Madison Counties; it is involved in the waste industry; and, is the owner and operator of a landfill located in Madison County. Roxana has participated in this siting process (and is filing this Petition), among other reasons, to encourage equal application of the state siting criteria to any person who seeks site location approval, object to unequal application of the state siting criteria by local government, and object to the Facility's siting application on the basis that it fails to meet the state siting criteria.

6. On March 26, 2014, Roxana filed its appearance for the siting hearing on the Facility's siting application. Additionally, Roxana attended the public hearing, presented evidence at the public hearing, and attended the decision on the subject local siting review.

7. Further, Roxana, through its attorneys, timely filed written comments concerning or relating to the subject application with Caseyville.

8. Pursuant to Section 107.208(c), the following Paragraphs 9-11, set forth the grounds for this appeal.

9. As an initial matter, Caseyville did not have proper jurisdiction to conduct the local public hearings or make a decision on Facility's siting Application. The pre-filing notice was not accurate, was misleading, and was insufficient under the requirements of Section 39.2(b) pre-filing notice requirements are a jurisdictional prerequisite to the local new pollution control

facility site location process. *See, Ogle County Bd. Ex rel. County of Ogle v. Pollution Control Bd.*, 272 Ill. App. 3d 184, 208 Ill. Dec. 489, 649 N.E.2d 545 (1995); *Kane County Defenders, Inc. v. Pollution Control Bd.*, 139 Ill. App. 3d 588, 93 Ill. Dec. 918, 487 N.E.2d 743 (2nd Dist. 1985). In addition, the official filing of the siting application with Caseyville may not have occurred on the date stated in the pre-filing notice.

10. Additionally, Criteria (i) (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) were not met by the Facility and Caseyville's approval of the Facility's siting application on those Criteria is not supported by the record and is against the manifest weight of the evidence.

11. A public hearing was held on the siting application on May 29, 2014. The Facility presented no sworn testimony.

12. The only sworn testimony, provided by two expert witnesses, was that criteria (i), (ii), (vi), and (viii) were not met.

13. Finally, the local siting review procedures, hearings, decisions, and process individually and collectively, were fundamentally unfair due to, at a minimum, the unavailability of the public record; the prejudgment of the siting application, and the failure of the Facility to present testimony and be subject to cross-examination. Roxana reserves its rights to incorporate additional fundamental fairness issues during the course of this proceeding.

WHEREFORE, Petitioner Roxana respectfully requests the Board enter an order (a) finding that no jurisdiction existed on Caseyville Transfer Station, L.L.C.'s siting application, vacating the Village Board's siting decision, and declaring void any subsequent approvals reliant on the Village Board's siting decision; (b) alternatively and notwithstanding or waiving the jurisdictional issues, setting for hearing this contest of the Village Board of the Village of

Caseyville, Illinois siting approval decision; (c) alternatively and notwithstanding or waiving the jurisdictional issues, reversing the Village Board's approval, denying Caseyville Transfer Station, L.L.C.'s siting application, and declaring void any subsequent approvals reliant on the Village Board's siting decision; (d) alternatively and notwithstanding or waiving the jurisdictional issues or item (c) above, remanding this matter for further local public hearings to address the fundamentally unfair local proceeding; and (e) providing such other and further relief as the Illinois Pollution Control Board deems appropriate or as necessary to effectuate its decision.

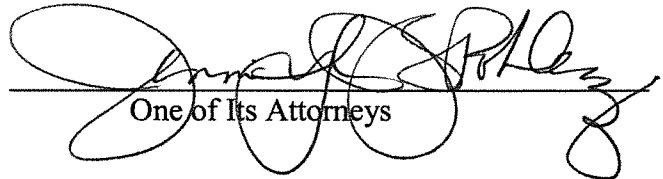
Dated: September 8, 2014

Jennifer J. Sackett Pohlenz
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150 N Michigan Ave | Suite 2700 | Chicago,
Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) |
Attorney Registration No. 6225990

Respectfully submitted,

ROXANA LANDFILL, INC.

By:


One of Its Attorneys



Village of Caseyville

909 South Main Street
Caseyville, Illinois 62232

Phone: 618-344-1234
Fax: 618-394-1234

LEN BLACK
Mayor

ROB WATT
Village Clerk

WALTER ABERNATHY
Trustee

RICK CASEY, JR.
Trustee

KERRY DAVIS
Trustee

G.W. SCOTT, SR.
Trustee

RON TAMBURELLO
Trustee

BRENDA WILLIAMS
Trustee

BRIAN RADER
Supt. of Public Works

VILLAGE OF CASEYVILLE DECISION REGARDING CASEYVILLE TRANSFER STATION, LLC'S APPLICATION FOR LOCAL SITING APPROVAL

BE ADVISED the Village of Caseyville held a Special Board Meeting on August 6, 2014 where it GRANTED Caseyville Transfer Station, LLC's Application for Local Siting Approval pursuant to its continuing desire to bring new business into Caseyville.

The Village Board, having an opportunity to review the Application, full record, and transcript of the public hearing held on May 29, 2014, makes this decision in full compliance with 415 ILCS 5/39.2. The applicant has complied with all procedural and notice requirements of the statute thus giving the Village jurisdiction to reach this decision.

In reaching its decision, the Village finds that each of the criteria prescribed in 415 ILCS 5/39.2(a)(i-ix) has been met. Specifically, the Village finds that the location of the proposed facility fits well with the surrounding area and that impact on existing traffic will be minimal. Furthermore, incorporated by reference herein is the full record of the Application including comments, responses, and transcripts.

The Village Board has granted the undersigned Mayor of Caseyville the authority to execute this written decision and any other documents or forms which may be necessary to comply with applicable law.

Leonard Black

Leonard Black, Mayor of the Village of Caseyville

Exhibit A



Village of Caseyville

909 South Main Street
Caseyville, Illinois 62232

Phone: 618-344-1234
Fax: 618-394-1234

SPECIAL BOARD MEETING MINUTES August 6, 2014

Call to Order:

LEN BLACK
Mayor

ROB WATT
Village Clerk

WALTER ABERNATHY
Trustee

RICK CASEY, JR.
Trustee

KERRY DAVIS
Trustee

G.W. SCOTT, SR.
Trustee

RON TAMBURELLO
Trustee

BRENDA WILLIAMS
Trustee

BRIAN RADER
Supt. of Public Works

The Special Board Meeting of the Village of Caseyville was called to order at 6:00 P.M. by Mayor Leonard Black. The meeting was held on Wednesday, May 21, 2014 in the Council Chambers at 909 South Main, Caseyville, IL 62232.

The meeting opened with the Pledge of Allegiance and silent prayer.

Roll Call:

Trustees present: Kerry Davis, Wally Abernathy, Brenda Williams, G.W. Scott and Ron Tamburello.

Absent: Rick Casey, Jr.

Others Present: Mayor Leonard Black, Superintendent of Public Works, Brian Rader, Interim Chief Scott Miller, Village Attorney Mike Gras and Clerk Rob Watt.

Old Business

None

Citizen's Input

- Before the Mayor opened the floor for Citizen's Input, he gave the floor to Attorney Mike Gras to explain why we are having the Special Board Meeting. Attorney Gras informed the people that we are here to decide on the Caseyville Waste Transfer Station, LLC's application for a waste transfer station inside the Village of Caseyville. He informs the public about the hearing held on May 29, 2014 and how there have been public comments since that hearing. He states that the Board Members are going to be making their decision based on that public record as it exists to this point. He said that since we have Citizen's Input on the Agenda, that the Board will allow them to give their comments. He goes over the instructions that the court reporter gave before the meeting started. He states that the Board will probably not respond to the public comments directly and will make their decision

tonight. He lets the audience know that the Board's decision will be based solely on the record and not any new comments made her tonight. Comments can be made but will not be taken into consideration for tonight's decision. Attorney Gras states that when the Board makes their decision it will be pursuant to the statute 415 ILCS 5/39.2, which gives the 9 design criteria to consider when reaching their decision on this issue.

- Canteen Township Supervisor Norman Miller addresses the Board with a few points that he wants to touch as it applies to the Caseyville Waster Transfer Station since it has been two months since the hearing. He thanks the Board Members that showed up for that hearing to hear what they had to say. His first issue is that there were 10 criteria and none of them were met. His second issue was that a traffic study was done on that road. He hopes that the Board looked at the traffic study and that they had a chance to go down there to see what is going on. He mentions that most people do not know that road is the only thoroughfare that handles all the bus traffic from East St. Louis School District. He states all the buses come down Bunkum Road at different hours for different programs. He states that with all the extra traffic it will throw off all their programs, that they are not going to have babysitters at home on time, they are not going to there at home for lunch because there is going to be traffic problems. He states that Bunkum Road has the most traffic in Canteen Township. Mr. Miller says he didn't know if the Board was looking at the school buses when they were thinking about this but it is an important to them. Mr. Miller goes over the problems that come with this type of project. They were:
- The smell that wasn't there before.
 - Rodent problem that wasn't there before.
 - Trash flying out of the trash trucks and no intent by anyone to clean it up.
 - Resident complaints about how busy Bunkum Road is and will be.
- Mr. Miller discusses the issues that this will cause Canteen Township as it applies to the route that the trash trucks will take through their Township. He further states that the traffic study shows that the trash trucks cannot make the turn and will be turning into on-coming traffic. He hopes that each Board Member looked at the traffic study and the packet and he'll leave it at that.

New Business:

- Kerry Davis asked Attorney Mike Gras to clarify the 10 point criteria from the statute. Mike Gras makes the clarification from the statute to include a paragraph in the statute that he read and agreed could be used as the 10th point.
- Wally Abernathy asks why the Board was not given the information about the statute prior to this meeting. Mike Gras states that the statute had been quoted in the application and the record.
- Mayor Black asks the Board if they need more time to decide or to make comments. Ron Tamburello asks if the Board had any rebuttals for Mr. Norman Miller's concerns. Attorney Mike Gras informs Mr. Tamburello that we are not taking comments tonight in our decision. Ron Tamburello states that he thought since the Canteen Township Supervisor was here that we might have a rebuttal on that part of it. Attorney Gras states that Mr. Miller had submitted something for the record.
- Motion was made by Wally Abernathy, seconded by G.W. Scott, to accept the Caseyville Waste Transfer Station.

No questions on the motion.

Voting on the motion: G.W. Scott - Yea, Wally Abernathy - Yea, Ron Tamburello - Yea, Brenda Williams - Nay, Kerry Davis - Yea

4 Yeas - 1 Nay - Motion Passed.

- Attorney Mike Gras states that the decision on the Caseyville Waste Transfer Station has to be in writing with the reasons. He states that the reason could be that the criteria in the statute have been complied with. Mike Gras lets the Board know that they need to have their decision in writing with the reasons and could authorize the Mayor to sign that letter. He informs the Board that they could give their reasons for accepting the application. Mayor Black asks if the Board has any reasons to grant the application. Wally Abernathy states that it would be a good thing for Caseyville. He states that we have had all kinds of traffic down there to include traffic from Henderson Trucking. He states that there were never any questions on Henderson Trucking being down there and that no one asked the Village if they could be down there or not. He states there were no discussions over the roads or anything at that time. Ron Tamburello states that the place down there is more industrial and that more industries are moving down there. He states that there is going to be traffic and that

the Village is going to have to work on upgrading that area in the future. He states that there was traffic with the trucking company when he was Police Chief that there wasn't a major problem but that was a lot of traffic back then. Kerry Davis mentions that we are supposed to be upgrading Bunkum Road and the Mayor states that it should be happening shortly. G.W. Scott states that they are replacing the road all the way from 89th street to 37th Street. Mayor Black states that there is heavy equipment going down there now for which they already know that is heavier than the trash trucks. Attorney Mike Gras lets the Board know that the reasons need to mirror the criteria from the statutes and goes over them briefly. Kerry Davis states that his honest opinion is that the Village is in financial dire straits, that this is a revenue source that the Village will certainly use and that we want to be good neighbors to surrounding communities but we need to do what has to be done to protect the interests of Village residents. He states that a budget was passed in which \$190,000 had to be cut that stopped the Village from buying necessary equipment and other items they needed. He again states this is revenue the Village needs and lets the audience know that we have ordinances passed concerning trash companies and that he hopes that the Board agrees that the Police Department will uphold these ordinances if the trash trucks are not in compliance. Kerry Davis states that we will ensure that the Transfer station complies with the agreement as it applies to covered trucks, the smell and trash not escaping into other communities or other people's property. Attorney Mike Gras asked the Board if they saw any issues with the facility has what is necessary to accommodate the waste needs of the area intended? He states that it was part of the application. Discussion was made and it was deemed a negative impact.

- Motion was made by Kerry Davis, seconded by Ron Tamburello, to authorize the Mayor to sign a letter with the decision of the Village Board and the reasons why they accepted the Caseyville Waste Transfer Station.

No questions on the motion.

Voting on the motion: All yeas and no nays - Motion passed.

Adjournment

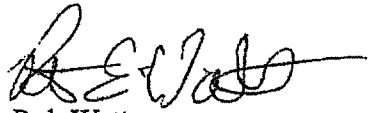
There was no additional business to bring before the Board. A motion was made by Ron Tamburello., seconded by G.W. Scott., to adjourn the meeting.

No questions on the motion.

Voting on the motion: All yeas and no nays - Motion passed.

Meeting adjourned at 6:16 p.m.

Respectfully Submitted by

A handwritten signature in black ink, appearing to read "Rob Watt", written in a cursive style.

Rob Watt
Village Clerk