

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROXANA LANDFILL, INC.)	
)	
Petitioner,)	
)	
v.)	PCB 15-65
)	(Third Party Pollution Control
)	Facility Siting Appeal)
VILLAGE BOARD OF THE VILLAGE OF)	
CASEYVILLE, ILLINOIS; VILLAGE OF)	
CASEYVILLE, ILLINOIS; and)	
CASEYVILLE TRANSFER STATION, LLC,)	
)	
Respondents.)	
_____)	
)	
VILLAGE OF FAIRMONT CITY, ILLINOIS,)	
)	
Petitioner,)	
)	
v.)	PCB 15-69
)	(Third Party Pollution Control
)	Facility Siting Appeal)
VILLAGE OF CASEYVILLE, ILLINOIS)	
BOARD OF TRUSTEES and CASEYVILLE)	
TRANSFER STATION, LLC,)	
)	
Respondents.)	

VILLAGE OF FAIRMONT CITY'S RESPONSES AND OBJECTIONS TO RESPONDENT'S INTERROGATORIES

Petitioner Village of Fairmont City, by its attorneys Sprague & Urban and Pedersen & Houpt, responds as follows to Respondent Caseyville Transfer Station, LLC's Interrogatories:

RESPONSES AND OBJECTIONS

INTERROGATORY NO. 1: State the facts or basis supporting or tending to support your allegation that the pre-filing notice was not accurate, was misleading, or was insufficient under the requirements of Section 39.2(b), or that the official filing of the siting application with the Village of Caseyville did not occur on the date stated in the pre-filing notice.

RESPONSE: Fairmont City did not make the claimed allegation.

INTERROGATORY NO. 2: State the facts or basis supporting or tending to support that Fairmont City is a person who may file a petition for review under Section 107.200(b) of the

Pollution Control Board Rules and Section 140.01 of the Act including how Fairmont City is "so located as to be affected by the proposed facility."

RESPONSE: *Valessares, et al. v. Country Board of Kane County, Illinois, et al.*, No. PCB 87-36, slip op. at 4, 12-13 (P.C.B. July 19, 1987).

INTERROGATORY NO. 3: With respect to the Regular Meeting of President and Board of Trustees of the Village of Fairmont City held on May 7, 2014 (a copy of the Meeting Agenda and Minutes are attached as Exhibit A), please:

- (a) Identify all documents and communications related to, the contents of, and the reasons and basis for, Resolution 2014-07 – A Resolution Amending the Host Community Agreement between the Village of Fairmont City and Waste Management of Illinois, Inc., referenced in the Meeting Agenda for said meeting.
- (b) Identify all documents and communications related to, the contents of, of and the reasons and basis for, the agreement between the Village of Fairmont City and Attorney Don Moran referenced in the minutes and said meeting.
- (c) Identify all document, communications and other information related to the decision by the President of the Board of Trustees of Fairmont city that the proposed facility was "not in the best interest of the Village of Fairmont" and/or to retain Attorney Don Moran to oppose the proposed facility.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it seeks information that is not relevant to any issue of jurisdiction or fundamental fairness in this appeal, nor is it reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 4: Identify all communications of or by anyone from representing the Village of Fairmont City or any of its agents including but not limited to its legal counsel that refer or relate to the Application for Local Siting or the Proposed Facility with the following persons and for each state with specificity the date, time subject matter, who else was present and who stated what to who:

- (a) Caseyville Village President Leonard Black;
- (b) Any member of the Village of Caseyville Board of Trustees;
- (c) Caseyville Village Clerk Robert Watt;
- (d) Caseyville Deputy Village Clerk Leslie McReynolds;
- (e) Caseyville employee Keri Davis Cary; and
- (f) Any other employee of the Village of Caseyville, Illinois.

RESPONSE: Other than the representatives of the Village of Fairmont City who appeared at the May 29, 2014 public hearing, there were no communications by anyone from Fairmont City to any of the persons listed in Interrogatory No. 4.

INTERROGATORY NO. 5: Identify each member of the Village of Caseyville Board of Trustees who you claim prejudged the Application for Local Siting in this matter, and for each member identified, state the specific facts or factual basis for your claim, and identify any oral statement or act by any member of the Village of Caseyville Board of Trustees indicating bias in favor of CTS or the Application for local Siting , and for each statement or act:

- (a) Describe the statement or act;
- (b) State when and where it occurred; and
- (c) Identify all persons who witnessed it or were present.

RESPONSE: Mayor Leonard Black, Trustees Wally Abernathy, Kerry Davis, G. W. Scott and Ron Tamburello.

- (a) Application was approved for financial reasons.
- (b) August 6, 2014 Special Board Meeting.
- (c) All persons present at August 6, 2014 Special Board Meeting.

INTERROGATORY NO. 6: Identify any ex parte communication that you allege to have occurred between CTS and any member of the Village of Caseyville Board of Trustees.

RESPONSE: Fairmont City has not made the claimed allegation.

INTERROGATORY NO. 7: State the facts or basis supporting or tending to support your allegation that the entire Village record of the siting proceedings was not made available for Village Board review.

RESPONSE: Trustee comments made during the Caseyville Board meeting held on August 6, 2014.

INTERROGATORY NO. 8: Describe any and all instances in which you claim the proceedings were fundamentally unfair, and for each instance:

- (a) State the facts or basis for the claim;
- (b) Identify each document or writing that supports or tends to support the claim; and
- (c) Identify each person who has or had any knowledge of claim.

RESPONSE: No opportunity to cross-examine applicant's witness; determination to approve siting application irrespective of statutory criteria.

- (a) Record of proceedings before Village of Caseyville
- (b) Minutes of August 16, 2014 Special Board Meeting; Transcript of May 29, 2014 Public Hearing.
- (c) Robert J. Sprague, Donald J. Moran, Jennifer Sackett-Pohlenz.

INTERROGATORY NO. 9: Please state the specific facts or factual basis supporting or tending to support any claim that the public hearing was not conducted in accordance with the requirements of Section 39.2 of the Illinois Environmental Protection Act or any other standard you claim is applicable and state any such standard as well as the facts with specificity.

RESPONSE: See response to Interrogatory No. 8.

INTERROGATORY NO. 10: Please state the name, current employer, job title, address, and phone number of all witness you expect to call at hearing and identify the subject matter and described the expected testimony of each such witness. For any expert, please identify any expert opinions that may be presented and give the qualifications of such expert as well as the opinion and basis for same.

RESPONSE: Fairmont City does not intend to call any witnesses at the PCB hearing.

INTERROGATORY NO. 11: Please describe any other evidence, not already described in answer herein, that you intend to present at the hearing in this matter including identifying all documents that may be used or presented.

RESPONSE: The only evidence that Fairmont City intends to present at the hearing in this matter is evidence or documents that were or should be made part of the record of proceedings before the Village of Caseyville on the siting application. Fairmont City reserves the right to present any evidence to address errors or omissions in the record of proceedings filed with the PCB or evidence presented by respondents at the PCB hearing.

INTERROGATORY NO. 12: Please identify the person(s) answering these Interrogatories including name, address, phone number, current employer, and job title.

RESPONSE: Donald J. Moran
Pedersen & Houpt, P.C.
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
312.641.6888

INTERROGATORY NO. 13: Please state how you came about being represented by Waste Management's attorney Don Moran and identify all records that show how your relationship and representation came about and that codify the same and state whether you are paying for such representation.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it does not seek information that is not relevant to any issue of jurisdiction or fundamental fairness in this appeal, nor is it reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 14: Please state the facts and exact evidence that show or tend to show that Fairmont City will be negatively affected by the approval of the Caseyville Transfer Station.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it is vague ("exact evidence" is unclear) and overly broad (misstates element of standing set forth in 415 ILCS 5/40.1(b)).

INTERROGATORY NO. 15: Please state all persons who were from Fairmont City that testified at hearing on this matter and or each give as much information as known to identify such person or persons.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it is vague ("all persons who were from Fairmont City" and "testified" are undefined and unclear) and overly broad and unduly burdensome (in that it is not relevant to any issue of jurisdiction or fundamental fairness, and is not reasonably calculated to lead to the discovery of admissible evidence).

INTERROGATORY NO. 16: Please state the exact argument and the factual basis to claim that the approved Caseyville facility is not necessary to accommodate the waste needs of the area it is intended to serve.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it does not seek information that is not relevant to any issue of jurisdiction or fundamental fairness in this appeal, nor is it reasonably calculated to lead to the discovery of admissible evidence.

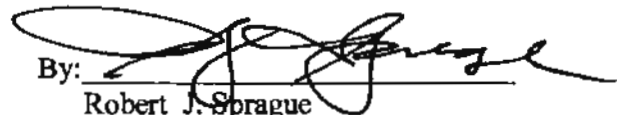
INTERROGATORY NO. 17: Please state the exact argument and the factual basis to claim that the approved Caseyville facility is not consistent with the St. Clair County Solid Waste Plan including pointing out exact language in such plan that supports your position.

RESPONSE: Fairmont City objects to this interrogatory on the grounds that it does not seek information that is relevant to any issue of jurisdiction or fundamental fairness in this appeal, nor is it reasonably calculated to lead to the discovery of admissible evidence.

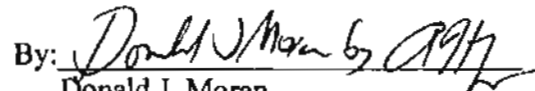
October 15, 2014

Respectfully submitted,

VILLAGE OF FAIRMONT CITY

By: 

Robert J. Sprague
SPRAGUE & URBAN
26 E. Washington Street
Belleville, Illinois 62220
Telephone: (618) 233-8383

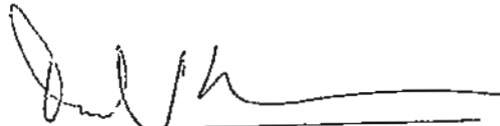
By: 

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street
Suite 3100
Chicago, Illinois 60601
Telephone: (312) 641-6888

CERTIFICATION

I, Donald J. Moran, being first duly sworn on oath, state that I have read the foregoing Responses and Objections to Interrogatories propounded by Respondent, Caseyville Transfer Station, LLC, and that the answers are complete, true and correct to the best of my knowledge and belief.

Dated this 15th day of October, 2014.



Donald J. Moran

CERTIFICATE OF SERVICE

Donald J. Moran, an attorney, on oath states that he served the foregoing Responses and Objections to Interrogatories propounded by Respondent, Caseyville Transfer Station, on the following parties by depositing same in the U.S. mail at 161 N. Clark Street, Chicago, Illinois 60601, on this 15th day of October, 2014.

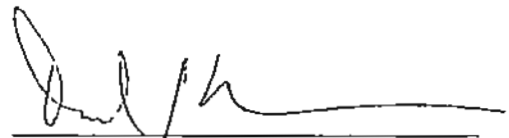
Village of Caseyville
c/o Rob Watt, Clerk
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Caseyville, Illinois 62232

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Donald J. Moran