

ILLINOIS POLLUTION CONTROL BOARD

ROXANA LANDFILL, INC.,)

Petitioner,)

vs.)

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

Respondents.)

PCB 15-65
(Third-Party Pollution Control
Facility Siting Appeal)

VILLAGE OF FAIRMONT CITY, ILLINOIS,)

Petitioner,)

vs.)

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

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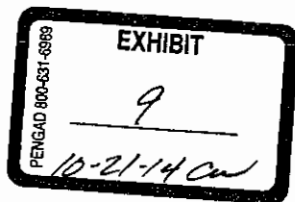
PCB 15-69
(Third-Party Pollution Control
Facility Siting Appeal)

**RESPONDENT CASEYVILLE TRANSFER STATION RESPONSES TO PETITIONER
ROXANA LANDFILL, INC.'S REQUEST TO PRODUCE**

NOW COMES Respondent, Caseyville Transfer Station, Inc., by and through its attorney Penni S. Livingston, of the Livingston Law Firm, and Responds to Petitioner Roxana Landfill, Inc.'s Request to Produce as follows:

1. Please produce all documents reviewed, used, referenced in, responsive to, or relevant to any Respondent's answers to Interrogatories.

RESPONSE: Any and all documents related to Respondent's answers to Interrogatories are produced on the disc included with this response.



2. Please produce all documents the Respondents, individually or jointly (in any combination), intend to present at the hearing in this matter.

RESPONSE: Respondent does not intend to present any evidence at the hearing, but reserves the right to present evidence in rebuttal to witnesses or evidence presented by the petitioners.

3. Please produce all documents the Respondents, individually or jointly (in any combination), intend to present at any deposition in this matter.

RESPONSE: Any and all documents that Respondent could potentially present at any deposition are provided on the disc included with this response. Respondent reserves the right to seasonably update this list as more information becomes available.

4. Please produce all documents related to the Host Community Agreement between all or part of the Respondents, including but not limited to email, texts, communications during negotiations, notes, exhibits, and drafts.

RESPONSE: Any and all documents related to the Host Community Agreement are provided on the disc included with this response.

5. Please produce all documents concerning host fee payments or other monetary payments made or agreed to be made to the Village of Caseyville.

RESPONSE: Any and all documents related to payments agreed to be made to the Village of Caseyville are provided on the disc included with this response.

6. Please produce all documents concerning, relating to, or documenting communications between Village of Caseyville staff and Village of Caseyville Board Members or Mayor from the date the Caseyville Transfer Station, L.L.C. siting application is alleged to be filed to the date of the Village Board of the Village of Caseyville's decision on that application.

RESPONSE: From February 10, 2014, the actual filing date of the Application for Local Siting Approval, and the date the Village Board of the Village of Caseyville voted to approve the siting application, there were no communications between CTS and the Village Board Members or

Trustees of the Village of Caseyville or the Mayor of the Village of Caseyville with the exception of CTS's presentation at the public hearing.

~~7. Please produce all documents concerning, relating to, or documenting communications~~
between Caseyville Transfer Station, L.L.C. and Village of Caseyville Board Members or Mayor from January 2013 to present, unless otherwise produced pursuant to Request 6, above.

RESPONSE: Email communications related to Caseyville Transfer Station, L.L.C. and Village of Caseyville Zoning Administrator Mike Mitchell and Caseyville Mayor Len Black are provided on the disc included with this response.

8. As respects the Village Board and Village of Caseyville only: please produce all documents concerning Caseyville Transfer Station, L.L.C.

RESPONSE: N/A

Respectfully submitted:
Caseyville Transfer Station, LLC

By:



PENNI S. LIVINGSTON, #06196480
Livingston Law Firm
Attorney for the Plaintiffs
5701 Perrin Road
Fairview Heights, Illinois 62208
Telephone: 618/628-7700
Email: penni@livingstonlaw.biz

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TRANSFER STATION, L.L.C.,)

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PCB 15-69
(Third-Party Pollution Control
Facility Siting Appeal)

**RESPONDENT CASEYVILLE TRANSFER STATION'S ANSWERS TO PETITIONER
ROXANA LANDFILL, INC.'S INTERROGATORIES**

NOW COMES Respondent, Caseyville Transfer Station, Inc., by and through its attorney Penni S. Livingston, of the Livingston Law Firm, and answers Petitioner Roxana Landfill, Inc.'s Interrogatories as follows:

1. Identify the Person(s) answering these Interrogatories, by providing their name, address, phone number, and the name of their current employer.

**ANSWER: John P. Siemsen, Manager
Caseyville Transfer Station, LLC
290 S. Main Place
Carol Stream, IL 60188
(630) 235-6163**

2. Identify all Person(s) who each Respondent intends to call as a witness at the hearing in this matter, by providing their name, address, phone number, the name of their current employer, and a description of their expected testimony.

ANSWER: Caseyville Transfer Station, LLC ("CTS") does not intend to call any witnesses at the hearing but reserves the right to call witnesses in rebuttal to witnesses or evidence presented by the petitioners and reserves the right to seasonable update this answer based on answers to Interrogatories propounded to Petitioners.

3. Identify what actions or measures were taken by the Respondent answering this Interrogatory to ensure the public record for the Caseyville Transfer Station, L.L.C. siting application was available for review at the Village of Caseyville Clerk's Office from the date of filing through the date of the decision by the Village Board of the Village of Caseyville. In answering this Interrogatory, please identify, at a minimum, the following information:

- a. Identification of each person in the Village of Caseyville Clerk's Office charged with the responsibility of maintaining the public record for the Caseyville Transfer Station, L.L.C. siting application;
- b. Identification of any person with knowledge of any requests to review the record; and
- c. Identification of any person with knowledge of any request to review the record being denied, either by lack of knowledge of what is the record, lack of knowledge of the Caseyville Transfer Station, L.L.C. siting, lack of documentation for the record, or another reason.

ANSWER: This interrogatory is directed to the Village of Caseyville and therefore CTS has no response.

4. Describe any testimony or evidence, not already described above, that the Respondent answering this Interrogatory intends to present at the hearing in this matter.

~~ANSWER: CTS does not intend to present any evidence at the hearing but reserves the right to present evidence in rebuttal to witnesses or evidence presented by the petitioners reserves the right to seasonably update this answer based on answers to Interrogatories propounded to Petitioners.~~

5. Identify each and every Village Board Member or Trustee or Mayor of the Village that communicated with or received any communication from Respondent Caseyville Transfer Station, L.L.C. between January 1, 2013, to present. In answering this Interrogatory, please identify the following:

- a. The persons participating in the communication;
- b. The date(s) of each communication;
- c. The form of the communication (e.g., email, telephone call, in person meeting, fax, written correspondence, etc.); and
- d. The subject matter of the communication.

ANSWER: With the exception of presentations by CTS to the Board of Trustees at regular meetings of the Board of Trustees held prior to the February 10, 2014 application date, and CTS's presentation at the public hearing, the only communications between CTS and any Village Board Member or Trustee or Mayor of the Village were as follows:

Persons Participating	Date	Form	Subject Matter
John Siemsen, CTS	10/4/2013	e-mail	Initial introduction regarding the transfer station project
Mike Mitchell, Caseyville Planning and Zoning Director			
Leonard Black, Caseyville Mayor			

Persons Participating	Date	Form	Subject Matter
John Siemsen, CTS and unknown Caseyville representative(s)	Unknown (between 10/4/2013 and 11/4/2013)	telephone	Communications setting up an in-person meeting
John Siemsen, CTS Mike Mitchell, Caseyville Planning and Zoning Director Leonard Black, Caseyville Mayor	11/4/2013	e-mail	E-mail confirming in person meeting scheduled for 11/5/2013
John Siemsen, CTS Mike Mitchell, Caseyville Planning and Zoning Director Leonard Black, Caseyville Mayor Brian Rader, Caseyville Superintendent of Public Works A member of the Caseyville board of trustees, specific identity unknown to CTS	11/5/2013	in person	In person meeting to discuss in general the transfer station project

6. Please identify all persons with the Village Board or Village of Caseyville who were subject to *ex parte* rules during the siting process, by providing their name and position with the Village of Caseyville.

ANSWER: Leonard Black, Village President
 Walter Abernathy, Trustee
 Rick Casey Jr., Trustee
 Kerry Davis, Trustee
 G.W. Scott Sr., Trustee
 Ron Tamburello, Trustee
 Brenda Williams, Trustee

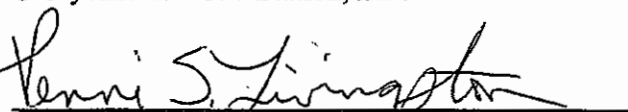
7. Please identify any and all communications that occurred between the date on which Caseyville Transfer Station, L.L.C. alleges it filed its siting application with the Village of Caseyville and the date the Village Board of the Village of Caseyville voted to approve that siting application, between Caseyville Transfer Station, L.L.C. and the Village of Caseyville subject to *ex parte* rules during the siting process, including but not limited to the Village Board Members or Trustees of the Village of Caseyville and the Mayor of the Village of Caseyville. In answering this Interrogatory, please identify the following:

- a. The persons participating in the communication;
- b. The date(s) of each communication;
- c. The form of the communication (e.g., email, telephone call, in person meeting, fax, written correspondence, etc.); and
- d. The subject matter of the communication.

ANSWER: From February 10, 2014, the actual filing date of the Application for Local Siting Approval, and the date the Village Board of the Village of Caseyville voted to approve the siting application, there were no communications between CTS and the Village Board Members or Trustees of the Village of Caseyville or the Mayor of the Village of Caseyville with the exception of CTS's presentation at the public hearing.

Respectfully submitted:
Caseyville Transfer Station, LLC

By:



PENNI S. LIVINGSTON, #06196480

Livingston Law Firm

Attorney for the Plaintiffs

5701 Perrin Road

Fairview Heights, Illinois 62208

Telephone: 618/628-7700

Email: penni@livingstonlaw.biz

John Siemsen

From: "John Siemsen" <jsiensen@mcminc.net>
To: "John Siemsen" <jsiensen@mcminc.net>; <lblack@caseyville.org>; <mmitchell@caseyville.org>
Sent: Monday, November 04, 2013 10:36 AM
Subject: Re: Transfer Station Project
Gentlemen,

I am writing to confirm our meeting for Tuesday, November 5 at 10:00 am at the Village offices. Please let me know if there have been any changes. Otherwise, I look forward to seeing you tomorrow morning.

John Siemsen
630-653-3700
630-235-6163 (cell)

----- Original Message -----

From: John Siemsen
To: lblack@caseyville.org ; mmitchell@caseyville.org
Sent: Friday, October 04, 2013 9:13 AM
Subject: Transfer Station Project

Gentlemen,

I am looking to develop a municipal solid waste transfer station in the St. Clair County area. I had some discussions with your predecessors regarding the project, but the specific sites within Caseyville that I was considering did not pan out for one reason or another.

I am looking at some additional sites within the Village limits. I was hoping to introduce myself and discuss the project in general.

Could one of you give me a call when you get a chance?

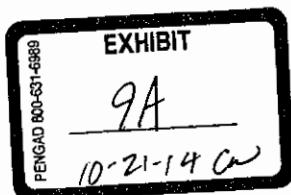
Thanks,

John Siemsen
630-653-3700
630-235-6163 (cell)

Caseyville Transfer Station

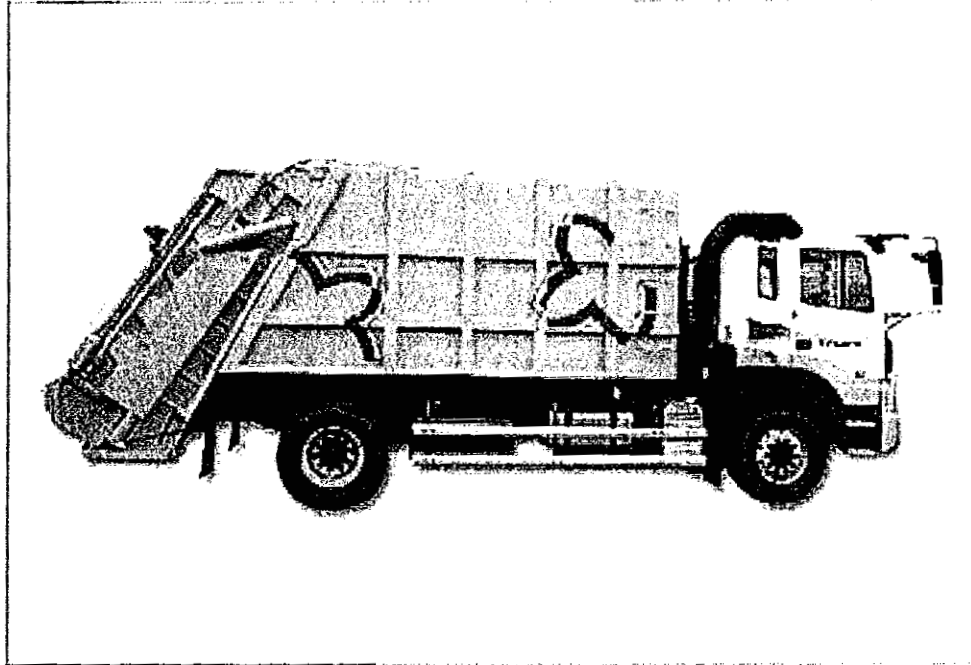
1) What is a Transfer Station?

- a) A "Transfer Station" is a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility.
- b) Transfer Stations accept household garbage from curbside collection vehicles (packer trucks) then consolidate the waste into trailer trucks for over-the-road transportation and disposal at a municipal solid waste landfill.
- c) Waste is deposited and loaded on an interior, fully-enclosed concrete tipping floor.

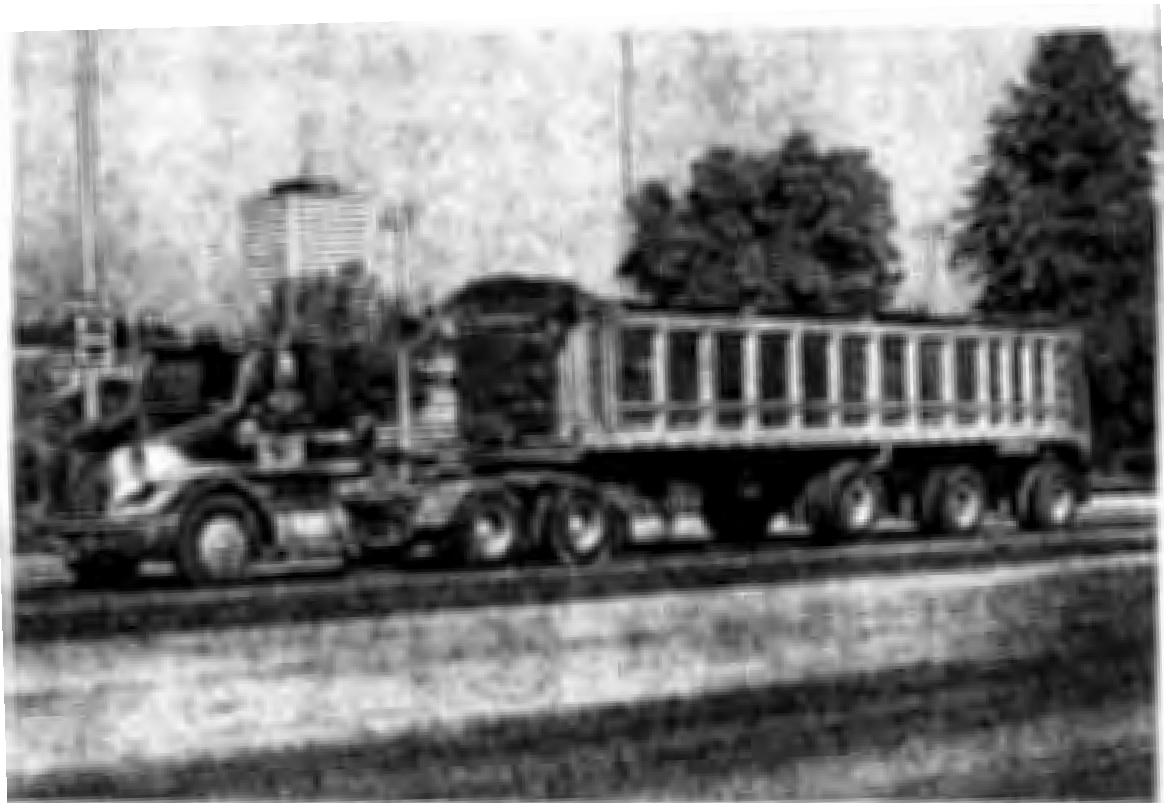


Caseyville Transfer Station

Packer Truck:

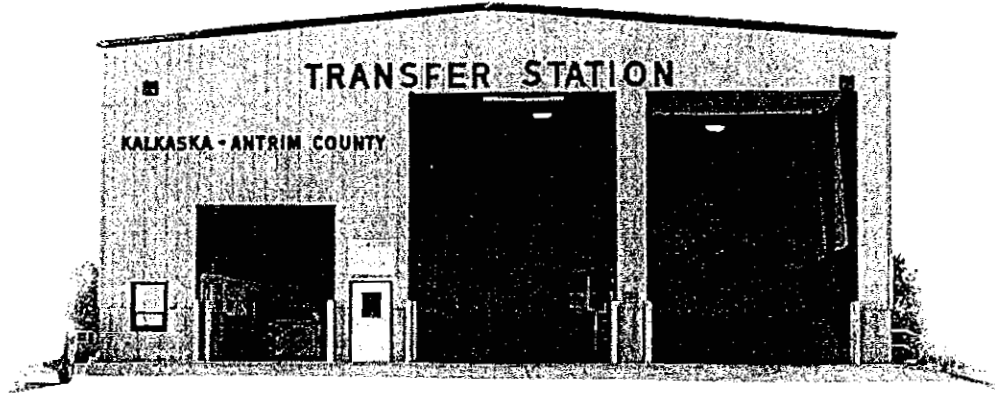


Trailer Truck:



Caseyville Transfer Station

d) Examples of Transfer Stations:



Caseyville Transfer Station

2) What materials would be processed at the Caseyville Transfer Station?

a) Yes:

- i) Garbage and general household and commercial waste
- ii) Office and lunchroom waste

b) No:

- i) Hazardous waste
- ii) Industrial process waste
- iii) Pollution control waste
- iv) Liquid waste

3) Other operating characteristics:

- a) Hours of Operation: Only during normal business hours, to be agreed with Village
- b) Tipping floor fully cleaned at least every 24 hours
- c) No outdoor overnight storage of waste except in covered containers
- d) On-site transfer station manager accessible to the Village and residents for any issues or complaints

4) Where would the waste come from?

- a) Local and regional "mom and pop" municipal waste collection businesses

5) Where would the waste go?

- a) Licensed "Subtitle D" landfills in the region

Caseyville Transfer Station

6) Where is the proposed site?

See drawings

7) Site Features

- a) Zoning: Industrial
- b) Surrounding Land Uses
 - i) Agricultural, industrial and commercial
 - ii) No adjacent residential uses

8) Traffic

- a) Roughly 10 to 30 packer trucks in each day (~1 to 3 per hour of operation)
- b) Roughly 5 to 10 transport trailers out each day (~1 per hour of operation)

9) Approval of Transfer Station

- a) Two-Step Process:
 - i) Step 1: Local Siting Approval – Village of Caseyville approves the location of the transfer station within the Village, considering the following criteria (Illinois Environmental Protection Act Section 39.2):
 - (1) Facility is necessary to accommodate waste needs of the area;
 - (2) Facility will be designed, located and operated in a manner that protects public health, safety and welfare;

Caseyville Transfer Station

- (3) Facility will be located to minimize incompatibility with surrounding area and minimize the effect on value of surrounding property;
 - (4) Facility is outside 100-year floodplain or is floodproofed;
 - (5) Plan of operations is designed to minimize danger from fire, spills, or other accidents;
 - (6) Traffic patterns are designed to minimize impact;
 - (7) Emergency response plan for hazardous waste facilities (**Not Applicable**);
 - (8) Consistency with St. Clair County Solid Waste Management Plan; and
 - (9) Consistency with applicable requirements for regulated recharge areas (presumably **Not Applicable**).
- ii) Step 2: IEPA Permit Application – The Illinois Environmental Protection Agency reviews and approves the technical aspects of the operation of the Transfer Station and issues permits to develop and operate the Transfer Station

10) Host Agreement

- a) Agreement between Village and Caseyville Transfer Station Operator
- b) Principal Terms:
 - i) At time of Agreement signing, Village **does not** consent to or adopt position on the Transfer Station and instead expresses neutrality regarding the Transfer Station
 - ii) Village agrees to review the local siting application in accordance with Section 39.2 of the Environmental Protection Act
 - iii) Transfer Station Operator agrees to pay Village for reasonable costs of review including Village Attorney, and other costs

Caseyville Transfer Station

- iv) If Transfer Station is approved and built, Transfer Station Operator agrees to pay Village a "Host Fee" for each ton of waste processed by the Transfer Station
- v) Village agrees not to impose any special taxes or fees on the Transfer Station (other than those imposed on other classes of taxpayers)

11) Transfer Station Approval Chronology

- a) Host Agreement signed by Village and Transfer Station Operator
- b) Pre-Application Review (Estimated at 30 days)
- c) Notice of Intent to File Application for Site Approval (14 days prior to application) –
- d) Application for Site Approval Submitted
- e) Public Hearing (90-120 days from application)
- f) Written Comment Period (30 days after public hearing)

12) Contact Information

John P. Siemsen
Metro East Transfer Station
290 South Main Place
Carol Stream, IL 60188
(630) 653-3700 (office)
(630) 235-6163 (cell)

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HOST COMMUNITY AGREEMENT

THIS HOST COMMUNITY AGREEMENT (this “**Agreement**”) is made and entered into as of the ___ day of _____, 2013 (the “**Effective Date**”) and between **METRO EAST TRANSFER STATION, LLC**, an Illinois limited liability company (the “**Operator**”) and **THE VILLAGE OF CASEYVILLE, ILLINOIS**, an Illinois municipal corporation (the “**Village**”).

RECITALS:

WHEREAS, Operator has an option to purchase the property described in Exhibit A of this Agreement (the “**Property**”) and the Property is located within the corporate limits of the Village;

WHEREAS, the Village understands that Operator intends to file with the Village an application for siting approval (the “**Application**”) under Section 39.2 of the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (the “**Act**”) for the development, construction and operation of a municipal solid waste transfer station (the “**Transfer Station**”) on the Property;

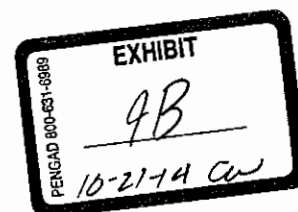
WHEREAS, the Village has not consented to or concurred in the Application for siting of the Transfer Station, and nothing in this Agreement shall be deemed by the Operator, the Village, other public agencies, or any other person or entity, to indicate that the Village has herein or heretofore adopted any position with regard to the proposed Application or the proposed Transfer Station;

WHEREAS, if the Village approves the Application for the siting of the Transfer Station, and if the Illinois Environmental Protection Agency (the “**IEPA**”) issues permits for the development and operation of the Transfer Station, and if the Operator develops, constructs and operates the Transfer Station, the Operator is willing to pay to the Village, and the Village desires to accept, Host Fees as hereinafter set forth and other benefits to help meet the direct and indirect costs of the Village associated with the approvals and the siting of the Transfer Station, and for other general revenue needs of the Village as the Village may deem appropriate;

WHEREAS, Section 39.2(e) of the Act, 415 ILCS 5/39.2(e), recognizes the authority of the Village to enter into host agreements;

WHEREAS, Operator is desirous of earning the good will of the citizens of the Village by demonstrating that its operations will be conducted in an environmentally sound manner and protective of the health, safety and welfare of the citizens of the Village; and

WHEREAS, the Village is desirous of protecting the health, safety and welfare of its citizens by measures set forth herein.



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NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **TERM OF AGREEMENT.** This Agreement is effective as of the Effective Date and shall expire on the date on which the use of the Property permanently ceases to be as a transfer station.

2. **WASTES PROCESSED BY THE TRANSFER STATION.**

a. **Wastes Acceptable for Delivery to the Transfer Station.** The Operator may accept delivery at the Transfer Station of only “Municipal Waste” as defined in the Act at 415 ILCS 5/3.290, and regulations promulgated under the Act, which includes garbage, general household and commercial waste, industrial lunchroom or office waste, landscape waste, and construction or demolition debris.

b. **Wastes Not Acceptable for Delivery to the Transfer Station.** The Operator shall not knowingly accept delivery of, treat or dispose of any of the following types of waste at the Transfer Station:

- i. Asbestos-containing materials;
- ii. Hazardous waste, as defined in Section 3.220 of the Act and regulations promulgated under the Act;
- iii. Potentially infectious medical waste, as defined in Section 3.220 of the Act and regulations promulgated under the Act;
- iv. Industrial process waste, as defined in 415 ILCS 5/3.325 and regulations promulgated under the Act;
- v. Pollution control waste, as defined in 415 ILCS 5/3.335 and regulations promulgated under the Act;
- vi. Liquid waste, as defined in 35 Ill. Admin. Code 811.107(m)(3)(A);
- vii. Poly-chlorinated byphenyls (“PCBs”);
- viii. Radioactive waste;
- ix. Lead acid batteries; or
- x. Any other wastes prohibited for delivery to the Transfer Station under permits issued by the IEPA or under applicable law.

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3. **COMMUNICATIONS BETWEEN VILLAGE AND OPERATOR.** From and after the date that the Transfer Station begins receiving waste (the “Operations Date”):

a. **Transfer Station Manager.** The Operator shall appoint a Transfer Station Manager who shall be the Village’s point of contact for matters relating to the Transfer Station. The Transfer Station Manager shall have an office at the Transfer Station.

b. **Public Inquiries.** The Operator shall maintain a telephone number for public inquiries, complaints, and customer calls. The telephone number shall be answered during regular business hours and shall be equipped with voicemail. Any complaints shall be investigated within twenty four (24) hours. In addition, Operator shall provide the Village with an emergency telephone number for contacting Operator at any time in the event of an emergency.

4. **OPERATION OF THE TRANSFER STATION.**

a. **Handling of Waste.** All delivery of waste at the Transfer Station shall be on the tipping floor inside the transfer building, and the tipping floor shall be free of waste by the end of each operating day or a least once every twenty-four (24) hours. No waste shall be stored outside the transfer building overnight except in covered containers.

b. **Waste Acceptance Hours.** The Transfer Station shall accept waste, and shall transport waste from the Transfer Station, only between the hours of 6:00 a.m. and 8:00 p.m. unless the Village approves in writing additional hours of waste acceptance. The restrictions in this Section 4(b) are limited to waste acceptance and waste transport, and do not impact the operations within the indoor areas of the Transfer Station.

c. **Village Inspection of the Transfer Station.** The Village may, during normal business hours of the Transfer Station, upon reasonable notice to the Operator, inspect the Transfer Station for compliance with this Agreement.

5. **HOST FEES.** If the Operator obtains site location approval from the Village, development and operational permits from the IEPA, and if Operator develops the Transfer Station and begins accepting waste, Operator shall pay the Village “Host Fees” as set forth herein.

a. **Calculation of Host Fee.** The Host Fee shall be calculated each calendar quarter beginning on the Operations Date, based upon the tons of Municipal Waste transported from the Transfer Station for landfill disposal during such calendar quarter, according to the following schedule:

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Operating Year	Host Fee (On Tons Landfilled)
1	\$0.50 per ton
2	\$0.75 per ton
3	\$1.00 per ton
4 and thereafter	Adjusted annually for inflation based on Year 3 Host Fee (See Section 5(b))

Operating Year 1 shall be the twelve (12) month period beginning on the Operations Date. Each subsequent Operating Year shall begin on the day following the last day of the prior Operating Year and shall end on the first anniversary of the expiration of the prior Operating Year.

b. **Inflation Adjustment.** Beginning in Operating Year 4, and in each Operating Year thereafter, the Host Fees set forth in Section 5(a) shall be adjusted based upon the Consumer Price Index published by the United States Department of Labor Bureau of Labor Statistics or in a successor index.

c. **Payment of Host Fee.** The Host Fees shall be paid on the thirtieth (30th) day following the close of a calendar quarter (for example, the Host Fee is due on April 30th for the calendar quarter ending March 31st). Payments of the Host Fee shall be made to the Village of Caseyville at _____, Caseyville, Illinois _____.

d. **Documentation of Host Fees.** Host Fees shall be calculated based upon tons of Municipal Waste transported from the Transfer Station for landfill disposal as determined by a certified scale which shall be maintained by Operator at the Transfer Station. With each payment to the Village, Operator shall submit to the Village an accounting of the amount of fees payable to the Village including the basis for such fees.

e. **Audit.** The Village may, at its expense, upon five business days' notice to the Operator, audit the Transfer Station's books and records with respect to the calculation and payment of Host Fees to the Village. If an audit reveals an underpayment to the Village, the Operator shall promptly pay the amount of the underpayment and, if the underpayment is more than ten percent (10%) of Host Fees due, shall bear the costs of the audit. The Village shall maintain as confidential the information which it derives from any audit of the Transfer Station's books and records. In no event, however, shall the Operator be obligated to reveal to the Village its customer lists or other customer information deemed proprietary by the Operator, and the Operator may redact any and all portions of the Transfer Station books and records revealing such information prior to providing any document to the Village, so long as the redaction does not remove tare and weight of truck information. If any audit reveals an overpayment by the Operator, then the Operator may credit the amount of such overpayment against payment of Host Fees payable after such audit. The Village must notify the Operator in writing of any dispute

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regarding the payment of Host Fees within one year from the last day for which disputed fees are payable, or else any such dispute is deemed waived.

f. **New Taxes.** In consideration of the Host Fees provided for under this Agreement, the Village shall not levy any new taxes or assess any fees against the Operator, the Property or the Transfer Station even if such fees are specifically allowed by law to be charged by a host community to a pollution control or other similar facility; provided, however, that foregoing shall not apply to real estate taxes, special assessments, or other fees or taxes validly and uniformly assessed against all members of a class of tax payers or fee payers, other than as an owner or operator of a waste transfer station or other waste management facility. For purposes of clarity, this Section 5(f) is intended only to prohibit new or additional taxes specific to waste transfer or waste management operations, and would not prohibit new or additional taxes or fees being levied or assessed against the Property or the Transfer Station, so long as such taxes or fees were also levied or assessed against other similar taxpayers. For example, this Section 5(f) would not exempt Operator, the Property or the Transfer Station from a new fee or tax levied upon or assessed against all property owners, all commercial property owners, or all businesses within the Village. Nothing in this Section is meant to in any way restrict or limit the Village's ability to require Operator to purchase a business license from the Village or to pay an annual fee for said license.

6. **REIMBURSEMENT OF VILLAGE EXPENSES.** The Operator shall reimburse the Village for reasonable third party out-of-pocket costs incurred by the Village with respect to the Application, beginning on the date of the filing of the Application with the Village, including Village attorney and court reporter fees associated with the Village's review and hearing of the Application; provided, however, that the fees and costs shall stop accruing on the date that the Village takes final action with respect to the approval or denial of the Application.

7. **VILLAGE WASTE ALLOWANCE.** In each calendar month beginning in the month of the Operations Date, the Village shall be permitted to deliver up to fifty (50) tons of Village Waste (defined below) to the Transfer Station without charge, and the Transfer Station shall manage such waste in accordance with all applicable laws and regulations. "Village Waste" shall mean residential Municipal Waste generated by households located within the Village and Municipal Waste generated by the Village as part of conducting the Village's normal government operations and services within the Village, and transported to the Transfer Station by vehicles owned or leased by the Village. In no event shall this Section 7 obligate the Operator or Transfer Station to accept any waste or other material that the Transfer Station is not authorized to accept under applicable laws, regulations or permit conditions.

8. **GENERAL PROVISIONS.**

a. **Assignment.** Operator shall have the right to assign its rights and obligations under this Agreement to any subsequent owner or operator of the Transfer Station, provided, however, that: (1) the Village approves the assignee, which approval shall not

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be unreasonably withheld, and (2) no such assignment shall be effective until the Village has received written notice of such assignment and the assignee assumes in writing all of the Operator’s obligations under this Agreement.

b. **Notices.** To be effective, any notice or other communication required, permitted or contemplated by this Agreement must be in writing and must be sent by certified mail (return receipt requested), overnight delivery service (with proof of delivery) or commercial courier (with proof of delivery) to the addresses listed below. Notices shall be deemed delivered or received upon the earliest to occur of: (a) three (3) days after the postmark if sent by certified mail; (b) the next day that is not a Saturday, Sunday or legal holiday if sent by overnight delivery service, and (c) upon receipt if delivered by commercial courier.

If to Operator: Metro East Transfer Station, LLC
290 South Main Place
Carol Stream, Illinois 60188
Attention: John P. Siemsen

If to Village: Village of Caseyville

Attention: _____

With a copy to:

c. **Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

d. **Non Waiver.** No course of dealing between the parties or any delay on the part of a party to exercise any right it may have under this Agreement shall operate as a waiver or any of the rights under this Agreement or a waiver of any rights provided by law or equity.

e. **Other Facilities.** The Village shall not, during the term of this Agreement, enter into any host agreement, or other agreement providing host community benefits to the Village, with another party who proposed to or does file a request for siting approval under Section 39.2 of the Act for a transfer station and/or landfill.

f. **Entire Agreement.** This Agreement constitutes the entire agreement between the Operator and the Village with respect to the Application, the Property, and the Transfer Station, and all prior or contemporaneous oral or written agreements or instruments are

DRAFT - FOR DISCUSSION PURPOSES ONLY

merged herein. No amendment to this Agreement shall be effective unless it is in writing and signed by both the Operator and the Village.

g. **Third Parties.** Nothing in this Agreement, express or implied, is intended to confer any right or remedy on any person other than the Village, the Operator, and their respective assigns.

h. **Counterparts.** This instrument may be signed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Operator and the Village have entered into this Agreement as of the date first written above.

OPERATOR:

VILLAGE:

METRO EAST TRANSFER STATION, LLC, an Illinois limited liability company

VILLAGE OF CASEYVILLE, ILLINOIS, an Illinois municipal corporation

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

ATTEST:

By: _____
Village Clerk

HOST COMMUNITY AGREEMENT

THIS HOST COMMUNITY AGREEMENT (this "Agreement") is made and entered into as of the 18th day of December, 2013 (the "Effective Date") and between **WASHINGTON PARK TRANSFER STATION, LLC**, an Illinois limited liability company (the "Operator") and **THE VILLAGE OF CASEYVILLE, ILLINOIS**, an Illinois municipal corporation (the "Village").

RECITALS:

WHEREAS, Operator has an option to purchase the property described in Exhibit A of this Agreement (the "Property") and the Property is located within the corporate limits of the Village;

WHEREAS, the Village understands that Operator intends to file with the Village an application for siting approval (the "Application") under Section 39.2 of the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (the "Act") for the development, construction and operation of a municipal solid waste transfer station (the "Transfer Station") on the Property;

WHEREAS, the Village has not consented to or concurred in the Application for siting of the Transfer Station, and nothing in this Agreement shall be deemed by the Operator, the Village, other public agencies, or any other person or entity, to indicate that the Village has herein or heretofore adopted any position with regard to the proposed Application or the proposed Transfer Station;

WHEREAS, if the Village approves the Application for the siting of the Transfer Station, and if the Illinois Environmental Protection Agency (the "IEPA") issues permits for the development and operation of the Transfer Station, and if the Operator develops, constructs and operates the Transfer Station, the Operator is willing to pay to the Village, and the Village desires to accept, Host Fees as hereinafter set forth and other benefits to help meet the direct and indirect costs of the Village associated with the approvals and the siting of the Transfer Station, and for other general revenue needs of the Village as the Village may deem appropriate;

WHEREAS, Section 39.2(e) of the Act, 415 ILCS 5/39.2(e), recognizes the authority of the Village to enter into host agreements;

WHEREAS, Operator is desirous of earning the good will of the citizens of the Village by demonstrating that its operations will be conducted in an environmentally sound manner and protective of the health, safety and welfare of the citizens of the Village; and

WHEREAS, the Village is desirous of protecting the health, safety and welfare of its citizens by measures set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **TERM OF AGREEMENT.** This Agreement is effective as of the Effective Date and shall expire on the date on which the use of the Property permanently ceases to be as a transfer station.

2. **WASTES PROCESSED BY THE TRANSFER STATION.**

a. **Wastes Acceptable for Delivery to the Transfer Station.** The Operator may accept delivery at the Transfer Station of only "Municipal Waste" as defined in the Act at 415 ILCS 5/3.290, and regulations promulgated under the Act, which includes garbage, general household and commercial waste, industrial lunchroom or office waste, landscape waste, and construction or demolition debris.

b. **Wastes Not Acceptable for Delivery to the Transfer Station.** The Operator shall not knowingly accept delivery of, treat or dispose of any of the following types of waste at the Transfer Station:

- i. Asbestos-containing materials;
- ii. Hazardous waste, as defined in Section 3.220 of the Act and regulations promulgated under the Act;
- iii. Potentially infectious medical waste, as defined in Section 3.220 of the Act and regulations promulgated under the Act;
- iv. Industrial process waste, as defined in 415 ILCS 5/3.325 and regulations promulgated under the Act;
- v. Pollution control waste, as defined in 415 ILCS 5/3.335 and regulations promulgated under the Act;
- vi. Liquid waste, as defined in 35 Ill. Admin. Code 811.107(m)(3)(A);
- vii. Poly-chlorinated byphenyls ("PCBs");
- viii. Radioactive waste;
- ix. Lead acid batteries; or
- x. Any other wastes prohibited for delivery to the Transfer Station under permits issued by the IEPA or under applicable law.

3. **COMMUNICATIONS BETWEEN VILLAGE AND OPERATOR.** From and after the date that the Transfer Station begins receiving waste (the "Operations Date"):

a. **Transfer Station Manager.** The Operator shall appoint a Transfer Station Manager who shall be the Village's point of contact for matters relating to the Transfer Station. The Transfer Station Manager shall have an office at the Transfer Station.

b. **Public Inquiries.** The Operator shall maintain a telephone number for public inquiries, complaints, and customer calls. The telephone number shall be answered during regular business hours and shall be equipped with voicemail. Any complaints shall be investigated within twenty four (24) hours. In addition, Operator shall provide the Village with an emergency telephone number for contacting Operator at any time in the event of an emergency.

4. **OPERATION OF THE TRANSFER STATION.**

a. **Handling of Waste.** All delivery of waste at the Transfer Station shall be on the tipping floor inside the transfer building, and the tipping floor shall be free of waste by the end of each operating day or a least once every twenty-four (24) hours. No waste shall be stored outside the transfer building overnight except in covered containers.

b. **Waste Acceptance Hours.** The Transfer Station shall accept waste, and shall transport waste from the Transfer Station, only between the hours of 6:00 a.m. and 8:00 p.m. unless the Village approves in writing additional hours of waste acceptance. The restrictions in this Section 4(b) are limited to waste acceptance and waste transport, and do not impact the operations within the indoor areas of the Transfer Station.

c. **Village Inspection of the Transfer Station.** The Village may, during normal business hours of the Transfer Station, upon reasonable notice to the Operator, inspect the Transfer Station for compliance with this Agreement.

5. **HOST FEES.** If the Operator obtains site location approval from the Village, development and operational permits from the IEPA, and if Operator develops the Transfer Station and begins accepting waste, Operator shall pay the Village "Host Fees" as set forth herein.

a. **Calculation of Host Fee.** The Host Fee shall be calculated each calendar quarter beginning on the Operations Date, based upon the tons of Municipal Waste transported from the Transfer Station for landfill disposal during such calendar quarter, according to the following schedule:

Operating Year	Host Fee (On Tons Landfilled)
1	\$0.75 per ton
2	\$1.00 per ton
3	\$1.25 per ton
4 and thereafter	Adjusted annually for inflation based on Year 3 Host Fee (See Section 5(b))

Operating Year 1 shall be the twelve (12) month period beginning on the Operations Date. Each subsequent Operating Year shall begin on the day following the last day of the prior Operating Year and shall end on the first anniversary of the expiration of the prior Operating Year.

b. **Inflation Adjustment.** Beginning in Operating Year 4, and in each Operating Year thereafter, the Host Fees set forth in Section 5(a) shall be adjusted based upon the Consumer Price Index published by the United States Department of Labor Bureau of Labor Statistics or in a successor index.

c. **Payment of Host Fee.** The Host Fees shall be paid on the thirtieth (30th) day following the close of a calendar quarter (for example, the Host Fee is due on April 30th for the calendar quarter ending March 31st). Payments of the Host Fee shall be made to the Village of Caseyville at 909 S. Main Street, Caseyville, Illinois 62232. Within ten (10) days after the Transfer Station opens for business, the Operator shall the Village a non-refundable deposit of Ten Thousand Dollars (\$10,000) (the "Host Fee Deposit"). The Host Fee Deposit shall be applied against Host Fees payable under this Agreement until reduced to zero, after which the Host Fees shall be payable in accordance with this paragraph. If the Host Fees payable under this Agreement do not reach \$10,000, the Village may retain the unused portion of the Host Fee Deposit.

d. **Documentation of Host Fees.** Host Fees shall be calculated based upon tons of Municipal Waste transported from the Transfer Station for landfill disposal as determined by a certified scale which shall be maintained by Operator at the Transfer Station. With each payment to the Village, Operator shall submit to the Village an accounting of the amount of fees payable to the Village including the basis for such fees.

e. **Audit.** The Village may, at its expense, upon five business days' notice to the Operator, audit the Transfer Station's books and records with respect to the calculation and payment of Host Fees to the Village. If an audit reveals an underpayment to the Village, the Operator shall promptly pay the amount of the underpayment and, if the underpayment is more than ten percent (10%) of Host Fees due, shall bear the costs of the audit. The Village shall maintain as confidential the information which it derives from any audit of the Transfer Station's books and records. In no event, however, shall the Operator be obligated to reveal to the Village its customer lists or other customer information deemed proprietary by the Operator, and the Operator may redact any and all

portions of the Transfer Station books and records revealing such information prior to providing any document to the Village, so long as the redaction does not remove tare and weight of truck information. If any audit reveals an overpayment by the Operator, then the Operator may credit the amount of such overpayment against payment of Host Fees payable after such audit. The Village must notify the Operator in writing of any dispute regarding the payment of Host Fees within one year from the last day for which disputed fees are payable, or else any such dispute is deemed waived.

f. **New Taxes.** In consideration of the Host Fees provided for under this Agreement, the Village shall not levy any new taxes or assess any fees against the Operator, the Property or the Transfer Station even if such fees are specifically allowed by law to be charged by a host community to a pollution control or other similar facility; provided, however, that foregoing shall not apply to real estate taxes, special assessments, or other fees or taxes validly and uniformly assessed against all members of a class of tax payers or fee payers, other than as an owner or operator of a waste transfer station or other waste management facility. For purposes of clarity, this Section 5(f) is intended only to prohibit new or additional taxes specific to waste transfer or waste management operations, and would not prohibit new or additional taxes or fees being levied or assessed against the Property or the Transfer Station, so long as such taxes or fees were also levied or assessed against other similar taxpayers. For example, this Section 5(f) would not exempt Operator, the Property or the Transfer Station from a new fee or tax levied upon or assessed against all property owners, all commercial property owners, or all businesses within the Village. Nothing in this Section is meant to in any way restrict or limit the Village's ability to require Operator to purchase a business license from the Village or to pay an annual fee for said license.

6. **REIMBURSEMENT OF VILLAGE EXPENSES.** The Operator shall reimburse the Village for reasonable third party out-of-pocket costs incurred by the Village with respect to the Application, beginning on the date of the filing of the Application with the Village, including Village attorney and court reporter fees associated with the Village's review and hearing of the Application; provided, however, that the fees and costs shall stop accruing on the date that the Village takes final action with respect to the approval or denial of the Application.

7. **VILLAGE WASTE ALLOWANCE.** In each calendar year, the Village shall be permitted to deliver up to fifty (50) tons of Village Waste (defined below) to the Transfer Station without charge, and the Transfer Station shall manage such waste in accordance with all applicable laws and regulations. "Village Waste" shall mean Municipal Waste generated by the Village as part of conducting the Village's normal government operations and services within the Village, including, without limitation, cleanup of fly dumping or abandoned properties, such Village Waste to be transported to the Transfer Station by vehicles owned or leased by the Village. In no event shall this Section 7 obligate the Operator or Transfer Station to accept any waste or other material that the Transfer Station is not authorized to accept under applicable laws, regulations or permit conditions.

8. **GENERAL PROVISIONS.**

a. **Assignment.** Operator shall have the right to assign its rights and obligations under this Agreement to any subsequent owner or operator of the Transfer Station, provided, however, that: (1) the Village approves the assignee, which approval shall not be unreasonably withheld, and (2) no such assignment shall be effective until the Village has received written notice of such assignment and the assignee assumes in writing all of the Operator's obligations under this Agreement.

b. **Notices.** To be effective, any notice or other communication required, permitted or contemplated by this Agreement must be in writing and must be sent by certified mail (return receipt requested), overnight delivery service (with proof of delivery) or commercial courier (with proof of delivery) to the addresses listed below. Notices shall be deemed delivered or received upon the earliest to occur of: (a) three (3) days after the postmark if sent by certified mail; (b) the next day that is not a Saturday, Sunday or legal holiday if sent by overnight delivery service, and (c) upon receipt if delivered by commercial courier.

If to Operator: Washington Park Transfer Station, LLC
290 South Main Place
Carol Stream, Illinois 60188
Attention: John P. Siemsen

If to Village: Village of Caseyville
909 South Main Street
Caseyville, Illinois 62232
Attention: Mayor

With a copy to:

John Gilbert, Esq.
Sandberg, Phoenix & von Gontard, P.C.
101 W. Vandalia Street - 3rd Floor
Edwardsville, IL 62025

c. **Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

d. **Non Waiver.** No course of dealing between the parties or any delay on the part of a party to exercise any right it may have under this Agreement shall operate as a waiver or any of the rights under this Agreement or a waiver of any rights provided by law or equity.

e. **Other Facilities.** The Village shall not, during the term of this Agreement, enter into any host agreement, or other agreement providing host community benefits to the Village, with another party who proposed to or does file a request for siting approval under Section 39.2 of the Act for a transfer station and/or landfill.

f. **Entire Agreement.** This Agreement constitutes the entire agreement between the Operator and the Village with respect to the Application, the Property, and the Transfer Station, and all prior or contemporaneous oral or written agreements or instruments are merged herein. No amendment to this Agreement shall be effective unless it is in writing and signed by both the Operator and the Village.

g. **Third Parties.** Nothing in this Agreement, express or implied, is intended to confer any right or remedy on any person other than the Village, the Operator, and their respective assigns.

h. **Counterparts.** This instrument may be signed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Operator and the Village have entered into this Agreement as of the date first written above.

OPERATOR:

VILLAGE:

WASHINGTON PARK TRANSFER STATION, LLC, an Illinois limited liability company

VILLAGE OF CASEYVILLE, ILLINOIS, an Illinois municipal corporation

By: John Siemsen

By: Leonard Black

Printed Name: John Siemsen

Printed Name: LEONARD BLACK

Title: Manager

Title: MAYOR

ATTEST:

By: [Signature]
Village Clerk

CASEYVILLE TRANSFER STATION L.L.C.

290 South Main Place, #101
Carol Stream IL 60188-2476

Ph: 630-653-3700
Fax: 630-933-9412

February 10, 2014

Village of Caseyville Illinois
Office of the Village Clerk
909 South Main Street
Caseyville, Illinois 62232

HAND DELIVERED

Re: Application for Local Siting Approval
Caseyville Transfer Station LLC


Dear Sir or Madam:

Please find the enclosed Application for Local Siting Approval (the "Application") of Caseyville Transfer Station LLC (the "Applicant"). This Application is being submitted by the Applicant pursuant to Section 39.2 of The Illinois Environmental Protection Act, 415 ILCS 5/39.2.

Please contact the undersigned with any questions.

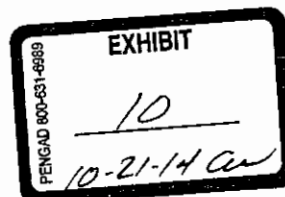
Very truly yours,

CASEYVILLE TRANSFER STATION LLC

By 

John P. Siemsen
Manager

JPS:SC
ENCLOSURE



000088

Leslie McReynolds

From: R Dub <rdubya71@gmail.com>
Sent: Wednesday, May 07, 2014 1:21 PM
To: Leslie McReynolds
Subject: Fwd: Phone Call

Good day to you!

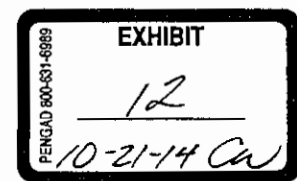
Can you get with Gilbert, Mitchell, Rader to see if we have the answers on this? Please let them know I have a meeting at 11am on Friday with Linda and any assistance they can give is greatly appreciated. You can provide them all with the questions. thanks and have a wonderful day!

V/r,
Rob.

----- Forwarded message -----
From: Linda Jones <linda.jones@progressivewaste.com>
Date: Wed, May 7, 2014 at 12:44 PM
Subject: RE: Phone Call
To: R Dub <rdubya71@gmail.com>

Yes, Friday works. Thanks much for the time. I have created a couple questions below:

1. Geographically, where is the proposed site located?
*BUNKUM RD WEST OF HARDING DITCH ON THE SOUTH SIDE OF BUNKUM RD.
PARCEL NUMBER 02-1540-030*
2. How many acres is the proposed site? Is there a site plan available? *YES*
5
3. Who owns the property and has construction been approved? *NO*



D.0089

4. If plans have been approved, what is the time frame for build-out? *NO APPROVAL*

5. Do we know if the owner looking to operate the facility or are they seeking to have a third-party company manage the site?

DON'T KNOW

6. Who is the contact person for the project?

*JOHN SIEMANS
630-235-6163*

7. What are the factors—plus and minus—that will be used to make the final determination?

ATTACHED

From: R Dub' [mailto:rdubya71@gmail.com]
Sent: Wednesday, May 07, 2014 11:29 AM
To: Linda Jones
Subject: Re: Phone Call

Ms. Jones,

Good day to you!

I have can meet Friday at 11am at Village Hall if that works for you? Is there anything in particular that you are wanting to discuss or need?

Thanks and have a wonderful day!

0000

V/r,

Rob Watt

On Wed, May 7, 2014 at 10:48 AM, Linda Jones <linda.jones@progressivewaste.com> wrote:

Would you have some time to meet this week to further discuss the proposed transfer station going into Caseyville?

From: R Dub [mailto:rdubya71@gmail.com]
Sent: Wednesday, April 30, 2014 11:10 AM
To: Linda Jones
Subject: Phone Call

Ms. Jones,

My apologies for any delayed response. I had a voicemail from you concerning the transfer station hearing. Can you please let me know how we can help you?

Thanks in advance and have a wonderful day!

V/r,

Rob

1000

Leslie McReynolds

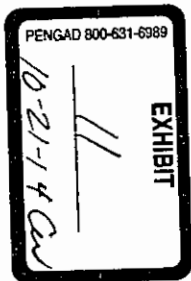
From: John Siemsen <jsiemsen@mcminc.net>
Sent: Friday, July 18, 2014 4:26 PM
To: rwatt@caseyville.org
Cc: Leslie McReynolds
Subject: Caseyville Transfer Station Proposed Resolution
Attachments: Caseyville Transfer Station Proposed Resolution.doc

Mr. Watt,

Please find the proposed resolution of Caseyville Transfer Station, LLC with respect to its Application for Local Siting Approval.

Very truly yours,

John P. Siemsen
Caseyville Transfer Station LLC
630-653-3700
630-235-6163 (Cell)



1000-C1

RESOLUTION # _____

**APPROVING
THE REQUEST OF CASEYVILLE TRANSFER STATION, LLC
FOR LOCAL SITING APPROVAL OF THE
CASEYVILLE TRANSFER STATION**

WHEREAS, the Caseyville Board of Trustees has the authority pursuant to the Illinois Environmental Protection Act (414 ILCS 5/39.2) to approve or deny requests for siting pollution control facilities with the Village of Caseyville; and

WHEREAS, the Act establishes the criteria a proposed facility must meet before a local siting authority may grant approval; and

WHEREAS, Caseyville Transfer Station, LLC has submitted an Application (the "Application") for Local Siting Approval for a municipal solid waste transfer station to be located on Bunkum Road in Caseyville, Illinois (the "Facility"); and

WHEREAS, the Caseyville Board of Trustees, having considered the Application, the record of hearing and all public comments, finds that Caseyville Transfer Station, LLC has met each of the nine siting criteria as follows:

Criterion 1: The Facility is necessary to accommodate the waste needs of the area it is intended to serve.

Criterion 2: The Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

Criterion 3: The Facility is located to as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.

Criterion 4: The Facility is located outside of the 100-year flood plain.

Criterion 5: The plan of operations for the Facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

Criterion 6: The traffic patterns to or from the Facility are so designed as to minimize the impact on existing traffic flows.

Criterion 7: The facility will not be treating, storing or disposing of hazardous waste.

Criterion 8: The facility is consistent with the county solid waste management plan.

D-0002

Criterion 9: The facility is not located in a regulated recharge area.

NOW, THEREFORE, BE IT RESOLVED by the Caseyville Board of Trustees that siting approval is hereby granted to Caseyville Transfer Station, LLC.

PASSED AT CASEYVILLE, ILLINOIS THIS 6th DAY OF AUGUST, 2014, A.D.

ATTEST:

SIGNED:

Rob Watt, Village Clerk

Leonard Black, Village President

D-0003

From: Leslie McReynolds <leslie01@caseyville.org>
Sent: Tuesday, June 10, 2014 11:30 AM
To: Pohlenz, Jennifer Sackett
Cc: rdubya71@gmail.com
Subject: RE: Transfer Station Request

Jennifer,

I scanned the documents and emailed them to you the day after the hearing. The documents I sent were those you seen in the office that week. I returned all the documents back to the clerk after the hearing but I am sure he can get me whatever you need. I am copying him in on this email so let me know how you would like to proceed.

Thanks,

Leslie

-----Original Message-----

From: Pohlenz, Jennifer Sackett [<mailto:JPohlenz@ClarkHill.com>]
Sent: Tuesday, June 10, 2014 11:26 AM
To: leslie01@caseyville.org; rwatt@caseyville.org; John L. Gilbert; rdubya71@gmail.com
Subject: RE: Transfer Station Request

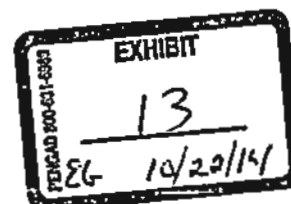
I have not heard back from you in response to this request. Please respond. Leslie had documents at the time I was at the Clerk's Office on Wednesday, May 28th, so at a minimum, I'd expect that those documents would be able to be faxed, scanned or copied for me (at my expense for the actual cost of reproduction). Whatever is more convenient transmittal method for the Village is fine with me - I am happy to ask someone to stop in at the Clerk's Office to pick up documents or receive them by fax or scan.

Thank you.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
CLARK HILL PLC
150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com



-----Original Message-----

From: Pohlenz, Jennifer Sackett
Sent: Thursday, May 29, 2014 9:05 AM
To: leslie01@caseyville.org; rwatt@caseyville.org; John L. Gilbert;
rdubya71@gmail.com
Subject: Transfer Station Request

Dear Clerk Watt,

Please provide me with a copy of everything that has been filed in the public record for the Caseyville Transfer Station, LLC siting application since the application was filed, including but not limited to any public comments, questions or appearances. This includes but is not limited to my own appearance.

Please also provide me with the certificate of publication for the public hearing notice.

In addition, please provide me with all invoices or requests submitted to the applicant for reimbursement of fees and costs associated with this application.

Further, please provide me with any document, correspondence, or communication between the applicant and the Village or Mayor or Village Board members, or Village staff, since the date the siting application was allegedly filed.

Should a FOIA request be required for all or a part of this request, please consider this email to be such a FOIA and I will reimburse all regularly incurred copying costs. Should any part of this request be denied, please identify which part and why. I was told yesterday by Leslie that the response to my request could be emailed to me. If that remains an option, please email it. If please call and I will pick it up.

Jennifer Pohlenz
Fax: 312-985-5971
Cell: 312-802-7810

Sent from my iPad

LEGAL NOTICE: This e-mail is for the exclusive use of the intended recipient(s), and may contain privileged and confidential information. If you are not an intended recipient, please notify the sender, delete the e-mail from your computer and do not copy or disclose it to anyone else. Your receipt of this message is not intended to waive any applicable privilege. Neither this e-mail nor any attachment(s) establish an attorney-client relationship, constitute an electronic signature or provide consent to contract electronically, unless expressly so stated by a Clark Hill attorney in the body of this e-mail or an attachment.

FEDERAL TAX ADVICE DISCLAIMER: Under U. S. Treasury Regulations, we are informing you that, to the extent this message includes any federal tax advice, this message is not intended or written by the sender to be used,

and cannot be used, for the purpose of avoiding federal tax penalties.

From: Pohlenz, Jennifer Sackett
Sent: Tuesday, June 10, 2014 11:32 AM
To: 'Leslie McReynolds'
Cc: rdubya71@gmail.com
Subject: RE: Transfer Station Request

Leslie,

Thank you for letting me know, but I did not receive an email from you or scan. Would you please re-send?

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
CLARK HILL PLC
150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [<mailto:leslie01@caseville.org>]
Sent: Tuesday, June 10, 2014 11:30 AM
To: Pohlenz, Jennifer Sackett
Cc: rdubya71@gmail.com
Subject: RE: Transfer Station Request

Jennifer,

I scanned the documents and emailed them to you the day after the hearing. The documents I sent were those you seen in the office that week. I returned all the documents back to the clerk after the hearing but I am sure he can get me whatever you need. I am copying him in on this email so let me know how you would like to proceed.

Thanks,

Leslie

-----Original Message-----

From: Pohlenz, Jennifer Sackett [<mailto:JPohlenz@ClarkHill.com>]
Sent: Tuesday, June 10, 2014 11:26 AM
To: leslie01@caseville.org; rwatt@caseville.org; John L. Gilbert;
rdubya71@gmail.com
Subject: RE: Transfer Station Request

identify which part and why. I was told yesterday by Leslie that the response to my request could be emailed to me. If that remains an option, please email it. If please call and I will pick it up.

Jennifer Pohlenz
Fax: 312-985-5971
Cell: 312-802-7810

Sent from my iPad

LEGAL NOTICE: This e-mail is for the exclusive use of the intended recipient(s), and may contain privileged and confidential information. If you are not an intended recipient, please notify the sender, delete the e-mail from your computer and do not copy or disclose it to anyone else. Your receipt of this message is not intended to waive any applicable privilege. Neither this e-mail nor any attachment(s) establish an attorney-client relationship, constitute an electronic signature or provide consent to contract electronically, unless expressly so stated by a Clark Hill attorney in the body of this e-mail or an attachment.

FEDERAL TAX ADVICE DISCLAIMER: Under U. S. Treasury Regulations, we are informing you that, to the extent this message includes any federal tax advice, this message is not intended or written by the sender to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

- > communication between the applicant and the Village or Mayor or Village
- > Board members, or Village staff, since the date the siting application was
- > allegedly filed.

From: Pohlenz, Jennifer Sackett
Sent: Friday, June 13, 2014 12:13 PM
To: 'Leslie McReynolds'
Subject: RE: Transfer Station Request

Thank you, Leslie. This isn't responsive and there appears to be some confusion, so please let me clarify:

I am requesting to view and make copies (and I am happy to do this in person) the following:

- (1) the "public record" for the Caseyville Transfer Station, LLC siting application, except for the application itself. This means all filings, including the things that Mr. Siemsen submitted at the public hearing, such as the publication of the notice of the public hearing date/time and the appearances that public participants filed at the public hearing. In addition, any letter or other communication that someone submits to the City concerning the transfer station is part of this public record;
- (2) the reimbursement that I am referencing is Caseyville Transfer Station, LLC's reimbursement of the City's fees and costs related to the hearing (not the City making payment to Mr. Siemsen's company);
- (3) the last request is broadly for all correspondence, communication, or document between Caseyville Transfer Station, LLC or Mr. Siemsen and the Mayor, any Council Member or the Village Attorney(s) from the date the siting application was allegedly filed to now. This includes, but is not limited to, emails, texts, and letters.

My colleague will be at City Hall on Wednesday, June 18, 2014, to view and make copies of the requested documents. Please confirm that works for you and you can have the documents available. Of course, we will pay the actual cost of copying and request that if any document is withheld, that the City identify that to us and provide us with the reason for withholding.

Thank you!

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
CLARK HILL PLC
150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [mailto:leslie01@caseyville.org]
Sent: Friday, June 13, 2014 9:04 AM
To: Pohlenz, Jennifer Sackett
Subject: FW: Transfer Station Request

-----Original Message-----

From: WATT, ROBERT E GS-11 USAF AMC AMC/CCP [mailto:robert.watt.2@us.af.mil]

Sent: Friday, June 13, 2014 8:45 AM

To: Leslie McReynolds

Subject: RE: Transfer Station Request

Leslie,

Here we go:

The Certificate of Publication for the Public Hearing Notice was filed by Mr. Siemson. We did not receive a copy.

You might have to get with Keri to see if we have any invoices for the license fee and any other fees. I do not know of us reimbursing them for anything.

The last part is all the documentation that all the others have come to copy. She needs to do the same for those documents because we do not have the manpower to do this.

V/r,
Rob

Robert E. Watt, GS-12
Chief, Global Reach Planning Center (GRPC)
AMC/CCPS
DSN: 576-4543
Commercial: (618) 256-4543
E-Mail: robert.watt.2@us.af.mil

-----Original Message-----

From: Leslie McReynolds [mailto:leslie01@caseyville.org]

Sent: Friday, June 13, 2014 8:22 AM

To: WATT, ROBERT E GS-11 USAF AMC AMC/CCP

Subject: FW: Transfer Station Request

-----Original Message-----

From: Pohlenz, Jennifer Sackett [mailto:JPohlenz@ClarkHill.com]

Sent: Friday, June 13, 2014 6:56 AM

To: Leslie McReynolds

Subject: Re: Transfer Station Request

Leslie,

You had several papers in the stack you showed me that appeared to be printouts of emails. Please provide those documents.

In addition, the other parts of my request were not answered. I have repeated them here for convenience:

Please also provide me with the certificate of publication for the public hearing notice.

In addition, please provide me with all invoices or requests submitted to the applicant for reimbursement of fees and costs associated with this application.

Further, please provide me with any document, correspondence, or communication between the applicant and the Village or Mayor or Village Board members, or Village staff, since the date the siting application was allegedly filed.

Regards,

Jennifer

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jpohlenz@clarkhill.com | www.clarkhill.com

> On Jun 11, 2014, at 11:22 AM, "Leslie McReynolds"
<leslie01@caseyville.org> wrote:

- >
- >
- > Please also provide me with the certificate of publication for the
> public hearing notice.
- >
- > In addition, please provide me with all invoices or requests submitted
> to the applicant for reimbursement of fees and costs associated with
> this application.
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- > Further, please provide me with any document, correspondence, or
> communication between the applicant and the Village or Mayor or
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and
cannot be used, for the purpose of avoiding federal tax penalties.

From: Pohlenz, Jennifer Sackett
Sent: Tuesday, June 17, 2014 11:25 AM
To: 'Leslie McReynolds'
Subject: RE: Transfer Station Request

Leslie,

My colleagues will show up around 3:30 in the afternoon - maybe a little later. I'd like to include in my request of (1) the public record, a copy of the transcript from the public hearing.

Thank you!

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
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312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [mailto:leslie01@caseyville.org]
Sent: Tuesday, June 17, 2014 8:56 AM
To: Pohlenz, Jennifer Sackett
Subject: RE: Transfer Station Request

Jennifer,

I will be here on Wednesday, June 18 and will hopefully have all the information you need. What time can I expect you?

-----Original Message-----

From: Pohlenz, Jennifer Sackett [mailto:JPohlenz@ClarkHill.com]
Sent: Friday, June 13, 2014 12:13 PM
To: Leslie McReynolds
Subject: RE: Transfer Station Request

Thank you, Leslie. This isn't responsive and there appears to be some confusion, so please let me clarify:

I am requesting to view and make copies (and I am happy to do this in person) the following:

(1) the "public record" for the Caseyville Transfer Station, LLC siting

application, except for the application itself. This means all filings, including the things that Mr. Siemsen submitted at the public hearing, such as the publication of the notice of the public hearing date/time and the appearances that public participants filed at the public hearing. In addition, any letter or other communication that someone submits to the City concerning the transfer station is part of this public record;

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(3) the last request is broadly for all correspondence, communication, or document between Caseyville Transfer Station, LLC or Mr. Siemsen and the Mayor, any Council Member or the Village Attorney(s) from the date the siting application was allegedly filed to now. This includes, but is not limited to, emails, texts, and letters.

My colleague will be at City Hall on Wednesday, June 18, 2014, to view and make copies of the requested documents. Please confirm that works for you and you can have the documents available. Of course, we will pay the actual cost of copying and request that if any document is withheld, that the City identify that to us and provide us with the reason for withholding.

Thank you!

Regards,

Jennifer

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jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [mailto:leslie01@caseyville.org]
Sent: Friday, June 13, 2014 9:04 AM
To: Pohlenz, Jennifer Sackett
Subject: FW: Transfer Station Request

-----Original Message-----

From: WATT, ROBERT E GS-11 USAF AMC AMC/CCP [mailto:robert.watt.2@us.af.mil]
Sent: Friday, June 13, 2014 8:45 AM
To: Leslie McReynolds
Subject: RE: Transfer Station Request

Leslie,

From: Pohlenz, Jennifer Sackett
Sent: Wednesday, June 25, 2014 2:52 PM
To: 'Leslie McReynolds'
Subject: RE: Transfer Station Request

Good afternoon, Leslie.

I wanted to follow-up with you on the FOIA I previously made. Thank you for providing documents to my colleagues last week. They did not see the emails I referenced in my June 13th request, and that I also saw when I requested the record on May 28th. Would you please forward those to me? In addition, there was a sign-in sheet at the May 29th public hearing. Would you please also provide me with a copy of that sign-in sheet? Due to the written comment deadline this Saturday, is it possible to email me those documents?

Finally, I believe the Village Board has a regular meeting planned for July 16th. Is that the day on which the transfer station siting will be on the agenda for a decision by the Village? I'd like to make arrangements to be present at the meeting.

Thank you!

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
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jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Pohlenz, Jennifer Sackett
Sent: Friday, June 13, 2014 12:13 PM
To: 'Leslie McReynolds'
Subject: RE: Transfer Station Request

Thank you, Leslie. This isn't responsive and there appears to be some confusion, so please let me clarify:

I am requesting to view and make copies (and I am happy to do this in person) the following:

(1) the "public record" for the Caseyville Transfer Station, LLC siting application, except for the application itself. This means all filings, including the things that Mr. Siemsen submitted at the public hearing, such as the publication of the notice of the public hearing date/time and the appearances that public participants filed at the public hearing. In addition, any letter or other communication that someone submits to the City concerning the transfer station is part of this public record;

(2) the reimbursement that I am referencing is Caseyville Transfer Station, LLC's reimbursement of the City's fees and costs related to the hearing (not the City making payment to Mr. Siemsen's company);

..

From: Pohlenz, Jennifer Sackett
Sent: Wednesday, June 25, 2014 3:07 PM
To: 'leslie01@caseyville.org'
Subject: Anything more filed in the public record

Leslie,

I forgot to ask in my email to you earlier today whether there was anything more filed in the public record since my colleagues were at Village Hall last Wednesday? If there is and it is too much to email or fax, I can ask someone to stop by and get me a copy. Please let me know – thank you.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

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jpohlenz@clarkhill.com | www.clarkhill.com

From: Pohlenz, Jennifer Sackett
Sent: Friday, June 27, 2014 5:17 PM
To: 'Leslie McReynolds'; rwatt@caseyville.org
Subject: In Re: Caseyville Transfer Station LLC - Filing in Public Record
Attachments: 0541_001.pdf; 0543_001.pdf; Exhibit A - Motion Dismiss Fundamental Unfairness.pdf

Dear Leslie and Rob:

I am enclosing three things also mailed to you today via U.S. Mail for filing in the public record for the Caseyville Transfer Station LLC request for siting approval matter.

- (1) Cover Letter
- (2) Written Comment
- (3) Exhibit A to the previously filed Motion to Dismiss Based on Fundamental Unfairness (was filed on May 29, 2014 at the public hearing). Please note, I believe at least some of the Motions that I passed out at the hearing did not have this Exhibit A attached, so I am enclosing it to make sure it gets included with the record.

These matters are postmarked today, so should be included in the written comments allowed 30-days following the public hearing pursuant to state law. If you have any questions concerning this filing, please let me know.

Thank you for your consideration.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

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312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

From: Pohlenz, Jennifer Sackett
Sent: Monday, July 14, 2014 8:43 AM
To: 'R Dub'
Cc: Leslie McReynolds
Subject: RE: Additional Letters for Caseyville Waste Transfer Station

Is the Caseyville Transfer Station LLC on the agenda for the Village Board meeting on 7/16? May I have a copy of the agenda, please?

Thank you!

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

CLARK HILL PLC

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Jennifer

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From: Pohlenz, Jennifer Sackett
Sent: Tuesday, August 05, 2014 11:12 AM
To: 'Leslie McReynolds'
Cc: rwatt@caseyville.org; rdubya71@gmail.com
Subject: August 6th Special Meeting

Leslie,

Will a court reporter be present at the August 6th Special Meeting at Village Hall?

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
CLARK HILL PLC
150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601
312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

From: Pohlenz, Jennifer Sackett
Sent: Tuesday, August 05, 2014 3:19 PM
To: 'Leslie McReynolds'
Subject: RE: August 6th Special Meeting

I can't answer that for you, because I'm not the Village's attorney. I can reference that when I have represented government entities, it is my recollection that they have had a court reporter present so that the Board Members' discussion and basis for the decision is recorded. If the Village decides to have one or not is important for me to know, so I can advise my client and decide whether we should hire a court reporter. So, please let me know whether there will be one there or not.

Thank you.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
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312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [<mailto:leslie01@caseville.org>]
Sent: Tuesday, August 05, 2014 3:15 PM
To: Pohlenz, Jennifer Sackett
Subject: RE: August 6th Special Meeting

We do not have one scheduled. Is it required?

-----Original Message-----

From: Pohlenz, Jennifer Sackett [<mailto:JPohlenz@ClarkHill.com>]
Sent: Tuesday, August 05, 2014 11:12 AM
To: Leslie McReynolds
Cc: rwatt@caseville.org; rdubya71@gmail.com
Subject: August 6th Special Meeting

Leslie,

Will a court reporter be present at the August 6th Special Meeting at Village Hall?

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

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150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601

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From: Pohlenz, Jennifer Sackett
Sent: Wednesday, August 20, 2014 11:37 AM
To: 'Leslie McReynolds'
Subject: August 6th Special Meeting - Letter from Mayor

Good morning, Leslie.

At the August 6, 2014, Village of Caseyville Special Meeting approving the Caseyville Transfer Station, LLC siting request, the Village Attorney referenced and the Village Board Members voted on authorizing the Mayor to prepare a letter documenting the decision of the Village Board.

I am requesting the minutes from the August 6th Special Meeting and the letter decision of the Mayor. Please let me know if you can email those to me - otherwise, I'll ask someone to stop by the Village Hall and pick them up.

Thanks.

Regards,

Jennifer

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jpohlenz@clarkhill.com | www.clarkhill.com

—
From: Pohlenz, Jennifer Sackett
Sent: Thursday, August 28, 2014 1:44 PM
To: 'Leslie McReynolds'
Subject: RE: August 6th Special Meeting - Letter from Mayor

Leslie,

I have not received a response to this request.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz
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-----Original Message-----

From: Pohlenz, Jennifer Sackett
Sent: Wednesday, August 20, 2014 11:37 AM
To: 'Leslie McReynolds'
Subject: August 6th Special Meeting - Letter from Mayor

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Jennifer

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jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Leslie McReynolds [<mailto:leslie01@caseville.org>]
Sent: Wednesday, September 03, 2014 3:18 PM
To: Pohlenz, Jennifer Sackett
Subject: RE: August 6th Special Meeting - Letter from Mayor

Hi Jennifer! My apologies for not getting back to you sooner. The Internet at Village Hall was down for over a week. Are you still needing the below referenced items? I believe the minutes are posted on our website but I can scan the letter the Mayor signed and posted.

Thanks!

-----Original Message-----

From: Pohlenz, Jennifer Sackett [<mailto:JPohlenz@ClarkHill.com>]
Sent: Wednesday, August 20, 2014 11:37 AM
To: Leslie McReynolds
Subject: August 6th Special Meeting - Letter from Mayor

Good morning, Leslie.

At the August 6, 2014, Village of Caseyville Special Meeting approving the Caseyville Transfer Station, LLC siting request, the Village Attorney referenced and the Village Board Members voted on authorizing the Mayor to prepare a letter documenting the decision of the Village Board.

I am requesting the minutes from the August 6th Special Meeting and the letter decision of the Mayor. Please let me know if you can email those to me - otherwise, I'll ask someone to stop by the Village Hall and pick them up.

Thanks.

Regards,

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Pohlenz, Jennifer Sackett

From: Leslie McReynolds <leslie01@caseyville.org>
Sent: Thursday, June 26, 2014 11:02 AM
To: Pohlenz, Jennifer Sackett
Subject: RE: Anything more filed in the public record
Attachments: MX-M363N_20140626_110154.pdf

This is the only document that has been filed.

From: Pohlenz, Jennifer Sackett [<mailto:JPohlenz@ClarkHill.com>]
Sent: Wednesday, June 25, 2014 3:07 PM
To: leslie01@caseyville.org
Subject: Anything more filed in the public record

Leslie,

I forgot to ask in my email to you earlier today whether there was anything more filed in the public record since my colleagues were at Village Hall last Wednesday? If there is and it is too much to email or fax, I can ask someone to stop by and get me a copy. Please let me know – thank you.

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

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I have not heard back from you in response to this request. Please respond. Leslie had documents at the time I was at the Clerk's Office on Wednesday, May 28th, so at a minimum, I'd expect that those documents would be able to be faxed, scanned or copied for me (at my expense for the actual cost of reproduction). Whatever is more convenient transmittal method for the Village is fine with me - I am happy to ask someone to stop in at the Clerk's Office to pick up documents or receive them by fax or scan.

Thank you.

Regards,

Jennifer

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jpohlenz@clarkhill.com | www.clarkhill.com

-----Original Message-----

From: Pohlenz, Jennifer Sackett
Sent: Thursday, May 29, 2014 9:05 AM
To: leslie01@caseyville.org; rwatt@caseyville.org; John L. Gilbert;
rdubya71@gmail.com
Subject: Transfer Station Request

Dear Clerk Watt,

Please provide me with a copy of everything that has been filed in the public record for the Caseyville Transfer Station, LLC siting application since the application was filed, including but not limited to any public comments, questions or appearances. This includes but is not limited to my own appearance.

Please also provide me with the certificate of publication for the public hearing notice.

In addition, please provide me with all invoices or requests submitted to the applicant for reimbursement of fees and costs associated with this application.

Further, please provide me with any document, correspondence, or communication between the applicant and the Village or Mayor or Village Board members, or Village staff, since the date the siting application was allegedly filed.

Should a FOIA request be required for all or a part of this request, please consider this email to be such a FOIA and I will reimburse all regularly incurred copying costs. Should any part of this request be denied, please

From: Pohlenz, Jennifer Sackett
Sent: Friday, June 13, 2014 6:56 AM
To: Leslie McReynolds
Subject: Re: Transfer Station Request

Leslie,

You had several papers in the stack you showed me that appeared to be printouts of emails. Please provide those documents.

In addition, the other parts of my request were not answered. I have repeated them here for convenience:

Please also provide me with the certificate of publication for the public hearing notice.

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Further, please provide me with any document, correspondence, or communication between the applicant and the Village or Mayor or Village Board members, or Village staff, since the date the siting application was allegedly filed.

Regards,

Jennifer

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> On Jun 11, 2014, at 11:22 AM, "Leslie McReynolds" <leslie01@caseyville.org> wrote:

>

>

> Please also provide me with the certificate of publication for the public
> hearing notice.

>

> In addition, please provide me with all invoices or requests submitted to
> the applicant for reimbursement of fees and costs associated with this
> application.

>

> Further, please provide me with any document, correspondence, or

From: Pohlenz, Jennifer Sackett
Sent: Monday, July 14, 2014 9:00 AM
To: 'R Dub'
Cc: Leslie McReynolds
Subject: RE: Additional Letters for Caseyville Waste Transfer Station

Will a special meeting be set to make the decision in the Caseyville Transfer Station matter?

Also, may I have a copy of the committee meeting minutes from July 2?

Regards,

Jennifer

Jennifer J. Sackett Pohlenz

CLARK HILL PLC

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312.985.5912 (direct) | 312.985.5971 (fax) | 312.802.7810 (cell)
jpohlenz@clarkhill.com | www.clarkhill.com

From: R Dub [<mailto:rdubya71@gmail.com>]
Sent: Monday, July 14, 2014 8:47 AM
To: Pohlenz, Jennifer Sackett
Cc: Leslie McReynolds
Subject: Re: Additional Letters for Caseyville Waste Transfer Station

Jennifer,

Good morning to you!

The Caseyville Transfer Station LLC is not on the agenda for Wednesday Night. We will send you a copy once the agenda is final. Please let me know if you need anything else. Take care and have a wonderful day!

V/r,
Rob

On Mon, Jul 14, 2014 at 8:42 AM, Pohlenz, Jennifer Sackett <JPohlenz@clarkhill.com> wrote:

Is the Caseyville Transfer Station LLC on the agenda for the Village Board meeting on 7/16? May I have a copy of the agenda, please?

Thank you!

Regards,

From: Pohlenz, Jennifer Sackett
Sent: Wednesday, September 03, 2014 7:08 PM
To: 'Leslie McReynolds'
Subject: RE: August 6th Special Meeting - Letter from Mayor

Hi Leslie,

I can't find any recent minutes or the Mayor's letter on the website - maybe I'm looking in the wrong place? I took a screen shot, below, of what I'm viewing - please let me know if I should look somewhere else. Yes, I'd like a copy of the minutes and the Mayor's written decision/letter if it isn't posted on the website. Thank you.

← → http://www.caseyville.org/meetingdates.html

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Official Website of Caseyville, Illinois

- Aug 2013 - Regular Board Meeting
- Sept 2013 - Committee Meeting
- Sept 2013 - Regular Board Meeting
- Sept 2013 - Planning Commission Video
- Oct 2013 - Committee Meeting
- Oct 2013 - Regular Board Meeting
- Nov. 2013 - Committee Meeting
- Nov. 2013 - Regular Board Meeting
- Dec. 2013 - Committee Meeting
- Dec. 2013 - Regular Board Meeting
- Jan. 2, 2014 - Committee Meeting
- Jan. 15, 2014 - Regular Board Meeting
- Jan. 22, 2014 - Special Board Meeting
- Feb. 5, 2014 - Committee Meeting
- Feb. 19, 2014 - Regular Board Meeting
- March 5, 2014 - Committee Meeting
- March 5, 2014 - Special Board Meeting
- March 19, 2014 - Regular Board Meeting
- March 26, 2014 - Special Committee Meeting
- March 26, 2014 - Special Board Meeting
- April 2, 2014 - Speical Meeting at 6:00 pm
- April 2, 2014 - Special Meeting
- April 2, 2014 - Committee Meeting
- April 16, 2014 - Regular Board Meeting
- April 28, 2014 - Special Board Meeting
- May 7, 2014 - Committee Meeting
- May 21, 2014 - Regular Board Meeting
- June 4, 2014 - Committee Meeting
- June 18, 2014 - Regular Board Meeting

Archive Meeting Minutes

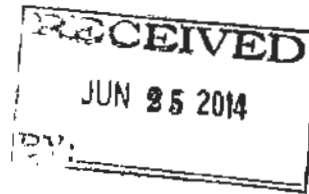
http://www.caseyville.org/documents/CommitteeMeeting_Minutes-June_4_2014_Signed.pdf

Regards,

Jennifer

Jennifer J. Sackett Pohlentz
CLARK HILL PLC
150 N Michigan Ave | Suite 2700 | Chicago, Illinois 60601

June 23, 2014



Village Board
Caseyville, IL

RE: Public Comment on the Siting Application of Caseyville Transfer Station, LLC

To Whom It May Concern:

As a business owner in Caseyville, I am very troubled by the proposed Caseyville Trash Transfer Station application filed by Chicago attorney John Siemsen.

Although I have many issues with this application, and even more after attending the public hearing on May 29th, I will highlight my major questions and concerns below.

First and foremost, as a taxpaying business owner in Caseyville who trusts local elected government to make the best, well informed decisions for the Village – where were my elected trustees on the night of the May 29th public hearing? Only two of six were present! And no village clerk attending? A public hearing regarding such an important proposed project – and the majority of Caseyville trustees do not bother to attend? What an insult to the residents and business owners in Caseyville who elected them to office. Why did they choose not to attend this public hearing? This greatly disturbs me.

Another concern of mine is the potential water drainage/flood issue at the proposed site. When I applied to the Village to expand my own business, Dog Sports at Kim's, located at 1951 Townsely Lane, just off Bunkum Road, I was required to raise the elevation of my building in order to proceed with my expansion. The proposed transfer station site is located just down Bunkum Road from my business and the lot, which is a "bowl" shape, also lies adjacent to the Harding Ditch, which has been known to flow over its banks. I do not see any indication that the applicant has been required to elevate this proposed site, as I was required to do. My concern is twofold: (1) It is unfair that I was required to go to the expense of elevating my lot and Siemsen was not; (2) Has anyone considered that should the ditch overflow, trash from this site could be carried away in the water and thereby polluting the area and potentially our water supply? I object to his application and the lack of a design plan that includes elevation adjustments to the proposed site.

My final concern is in relation to language I found in the Host Agreement, specifically (5)f on page 5, titled "New Taxes". It appears that this transfer station would be exempt from future taxes that may indeed be applied to my business. Why is he being given special treatment – prior to seeing how he even manages his business and whether it is even of any benefit to the village?

I am thankful I had the opportunity to submit this comment. I hope you take my concerns seriously. I have worked very hard to be able to expand my business since opening in Caseyville in 2006. I recently hosted a dog show competition June 5-8 that brought over 150 people to the Village of Caseyville for three nights and four days. Many people booked hotels, dined at local restaurants, and pursued other activities that had a positive impact on the local economy. I have several more events such as this booked for the remainder of 2014, and as my business expands so too will the impact on the local Caseyville economy. We have hundreds of people who attend Agility and Obedience dog classes here on a weekly basis.

I shudder to think what kind of impact a pile of trash, along with the increase in traffic of trucks hauling trash, would do to my business, my bottom line, and the local economy. No "good" can come from this transfer station.

It is my hope that my voice has been heard and I can look forward to continuing a positive business relationship with the Village of Caseyville and working to see my business continue to grow and flourish.

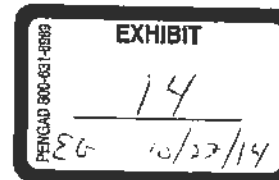
Thank you for your time.

Sincerely,



Kimberly Berkley
Owner, Dog Sports at Kim's

314-277-0594



CASEYVILLE TRANSFER STATION L.L.C.

290 South Main Place, #101
Carol Stream IL 60188-2476

Ph. 630-653-3700
Fax: 630-933-9412

July 7, 2014

VIA FEDERAL EXPRESS GROUND

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



Re: Caseyville Transfer Station, LLC Application for Local Siting Approval

Dear Mr. Watt:

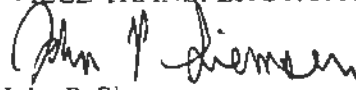
Enclosed please find the following documents being filed by Caseyville Transfer Station, LLC to be made a part of the Village's public record of the above-referenced matter:

1. Applicant Caseyville Transfer Station LLC's Post-Trial Summary
2. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to Roxana Landfill, Inc.'s Motion to Dismiss Based on Jurisdiction
3. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to Roxana Landfill, Inc.'s Motion to Dismiss Based on Fundamental Fairness

Feel free to contact me with any questions.

Very truly yours,

CASEYVILLE TRANSFER STATION, LLC

By 
John P. Siemsen
Manager

F-0001

**BEFORE THE BOARD OF TRUSTEES
VILLAGE OF CASEYVILLE, ILLINOIS**

**IN RE: CASEYVILLE TRANSFER)
STATION, LLC'S APPLICATION)
FOR LOCAL SITING APPROVAL)**

**APPLICANT CASEYVILLE TRANSFER STATION LLC'S
POST-TRIAL SUMMARY**

1. INTRODUCTION

This Post-Trial Summary is being submitted by Caseyville Transfer Station, LLC ("Applicant") to the Village Clerk of Caseyville, Illinois as part of the administrative record with respect to Applicant's Application for Local Siting Approval under Section 39.2 of the Illinois Environmental Protection Act. 415 ILCS 5/39.2. This Post-Trial Summary contains Applicant's summation of the evidence and issues raised at the public hearing held on May 29, 2014. Applicant seeks approval of its Application for Local Siting Approval. If the Board of Trustees approves the Application then Applicant will be required to apply to the Illinois Environmental Protection Agency for a development permit for the proposed Transfer Station, which application will require Applicant to demonstrate compliance with the Illinois Environmental Protection Agency's design and operational requirements for transfer stations.

It has been well-established that the Village Board of Trustees, has the authority and responsibility to approve or disapprove of an application for local siting based upon the following nine criteria:

- (i) the facility is necessary to accommodate the waste needs of the area it is intended to serve;

(ii) the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(iii) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

(iv) . . . the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed;

(v) the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

(vi) the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;

(vii) if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

(viii) if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; . . . ; and

(ix) if the facility will be located within a regulated recharge area, any applicable requirements specified by the [Illinois Pollution Control] Board for such areas have been met.

415 ILCS § 5/39.2(a).

The Application has received substantial scrutiny and attention, particularly by the two companies that control the landfill disposal market in the Metro East area, Roxana Landfill, Inc., a subsidiary of Allied Services, Inc. ("Roxana")¹ and Waste

¹ While Roxana has consistently tried to identify itself as a "participant" in the public hearing, the law is clear that the Illinois Environmental Protection Act "does not grant the right to 'participate' in public hearings or confer adjudicative due process rights to any person other than the applicant and those local government members or representatives mentioned in [Section 39.2(d) of the Illinois Environmental Protection Act]." *Stop the Mega-Dump v. County Board of DeKalb County*, 979 N.E.2d 524, 535 (Ill. App. 2012). Roxana is not one of the governmental entities identified in Section 39.2 of the Illinois Environmental Protection Act, and therefore has no rights greater than any member of the general public.

Management, Inc., acting through the Village of Fairmont City (collectively, the "Opponents"). The Opponents complained vociferously about the format of the hearing, and invested much effort and expense in seeking denial of the Application, including the hiring of high-powered legal counsel and expert witnesses. Their motivation is obvious. The proposed Transfer Station would take landfill disposal business away from them and cause price competition in the Metro East waste disposal marketplace. While the Opponents mounted a strenuous attack on the Application, a careful review of their arguments and their experts' testimony reveals that their objections are hollow and the Application should be approved under the nine criteria set forth in Section 39.2.

a. The Village Can Consider the Economic Benefits it Will Receive from the Transfer Station

According to Roxana, the Village's siting decision "has nothing to do with host fee payments or jobs potentially created by the proposed facility." (Written Comment of Roxana Landfill, Inc., p. 5.) While the potential economic benefits to the Village resulting from the Transfer Station may be irrelevant to Roxana, the law is clear that the Village may consider these benefits so long as it also finds that the nine criteria are satisfied. *See Fairview Area Citizens Task Force v. Pollution Control Board*, 555 N.E. 2d 1178, 1181-82 (Ill. App. 1990). The estimated host fees payable to the Village under the Host Community Agreement are shown on Exhibit 5.

b. The Public Hearing is Only Quasi-Judicial in Nature and is not a Trial

See id. While Roxana apparently believes it has a special status as a competitor of the proposed Transfer Station, the law simply does not agree. As a mere member of the general public, Roxana's rights in the proceeding "are limited to (1) public inspection of the application and related documents and materials on file and (2) public comment concerning the appropriateness of the site for its intended purpose." *See id.* (citing 415 ILCS 5/39.2(c)).

The Opponents have consistently asserted that the Section 39.2 siting process must be treated as a judicial process, requiring, among other things, sworn witness testimony and expert witness testimony. (See, e.g., Transcript pp. 6-7, 24-25, and 65-68.) Under Illinois law, however, there is no requirement that the Section 39.2 hearing be conducted as a trial. “[T]he Act does not prohibit a [municipal authority] from establishing its own rules and procedures governing conduct of a local siting hearing so long as those rules and procedures are not inconsistent with the Act and are fundamentally fair.” *Waste Management, Inc. v. Pollution Control Board*, 530 N.E.2d 682, 693 (Ill. App. 1988). A local siting hearing is an administrative hearing, and “due process is satisfied by procedures that are suitable for the nature of the determination to be made and that conform to fundamental principles of justice. . . . Furthermore, not all accepted requirements of due process in the trial of a case are necessary at an administrative hearing.” *See id.*

Rather, the fundamental fairness rights afforded under the Illinois Environmental Protection Act “are limited to (1) public inspection of the application and related documents and materials on file and (2) public comment concerning the appropriateness of the site for its intended purpose.” *Stop the Mega-Dump v. County Board of DeKalb County*, 979 N.E.2d 524, 535 (Ill. App. 2012). At the hearing, the Opponents and members of the public were given a full and fair opportunity to present any evidence, testimony, or objections. (See Transcript p. 138.) The Objectors have no valid argument that the public hearing conducted by the Board of Trustees was fundamentally unfair.

c. **The Board of Trustees Can Approve the Application for Local Siting With Conditions**

Contrary to Roxana's assertions, the Board may resolve any lingering concerns or issues by subjecting its approval to conditions. Section 39.2(e) of the Illinois Environmental Act expressly provides that the Board of Trustees may "impose such conditions as may be reasonable and necessary to accomplish the purposes of this Section [39.2]." 415 ILCS 5/39.2(e). In fact, counties and municipalities routinely approve applications for local siting but impose conditions with respect to issues that arise during the local siting process. For example, the DeKalb County Board approved Waste Management of Illinois, Inc.'s DeKalb County Landfill expansion subject to 32 conditions including that WMII develop a Perimeter Air Monitoring Plan and a Notification Protocol to be prepared and submitted to the county for approval prior to pursuing IEPA permitting. *See Waste Management of Illinois Inc. v. DeKalb County Board*, PCB 2010-104. Likewise, the City Council of Zion granted siting approval to Veolia ES Zion Landfill, Inc. subject to numerous conditions including that the applicant: (a) shall design its leachate collection system so that it can also be used for gas extraction; (b) develop a complaint monitoring system within 90 days; (c) design reasonable bird mitigation measures; and (d) cooperate with state, county and local officials to develop an access contingency plan. *See Veolia ES Zion Landfill, Inc. v. City Council of Zion*, PCB 2011-010. These cases demonstrate that, contrary to Roxana's assertions, the Board of Trustees could approve the Application but impose conditions on any matters that caused a concern to the Board.

2. THE EVIDENCE IN THE RECORD DEMONSTRATES THAT THE SITING CRITERIA UNDER SECTION 39.2 ARE SATISFIED

At the May 29, 2014 hearing, Applicant provided drawings, documents and other evidence with respect to each of the applicable siting criteria. Applicant has proven by a preponderance of the evidence the satisfaction of each of the criteria under Section 39.2.

a. Criterion 1: The Proposed Caseyville Transfer Station Is Reasonably Convenient To The Area's Waste Disposal Needs And Therefore Satisfies The Criterion Of Necessity

The first criterion, found in Section 39.2(a)(i) of the Act, is that "the facility is necessary to accommodate the waste needs of the area it is intended to serve." Under this standard, Applicant is not required to show that the proposed Transfer Station is "necessary in absolute terms, but only that proposed facility was 'expedient' or 'reasonably convenient' vis-a-vis the area's waste needs." *E&E Hauling Inc. v. Pollution Control Board*, 451 NE2d 555, 573 (Ill. App. 1983).

i. The Proposed Caseyville Transfer Station is Necessary Because There Are No Municipal Solid Waste Transfer Stations in the Service Area

The uncontroverted evidence at the public hearing demonstrated that there are no municipal solid waste transfer stations within the Service Area and that the Service Area contains the fewest municipal solid waste transfer stations in the State of Illinois, whether measured on a population basis or geographic basis. (Tr. pp. 25-29, Ex. 7.) In particular, while the Chicago metropolitan area has 0.57 transfer stations per 100,000 people, the Metro East region has only 0.36. (Ex. 7.)

ii. The Proposed Caseyville Transfer Station is Necessary to Promote Competition and Efficiency in the Service Area

As demonstrated by the testimony of and letter submitted by Mr. Eric Greear of Brisk Sanitation (Exhibit 14), the proposed Caseyville Transfer Station will increase

competition in the Service area by allowing independent waste haulers to better compete with the dominant companies in the waste management industry. According to Mr. Greear, "The Caseyville Transfer Station could allow Brisk to better compete against Allied Waste and Waste Management in retaining and securing customers for waste disposal services. Brisk Sanitation competes against Allied and Waste Management for customers but must contract with the same companies for landfill disposal." (Exhibit 14.) Mr. Greer further stated that the proposed Caseyville Transfer Station would be closer and more convenient, would result in reduced wait times for disposal, and would reduce wear and tear on waste hauling vehicles. (Ex. 14.)

Mr. Greear's statements are supported by the United States Environmental Protection Agency document, "Transfer Stations: A Manual for Decision Making," which was introduced by the Applicant at the public hearing as Exhibit E of Exhibit 1. According to the USEPA, Transfer stations serve the purpose of consolidating waste from collection vehicles into more efficient transfer trailers for more economical shipment to distant disposal sites. See Exhibit E of Exhibit 1 at p. 2. Transfer stations reduce waste transportation costs, reduce fuel consumption and collection vehicle maintenance costs, and produce less overall traffic, air emissions and road wear. See *id.* at p. 3.

iii. Neither the Existence of Local Landfill Capacity Nor the Longer Distance to Competing Landfills Negates the Need for the Proposed Caseyville Transfer Station and Ms. Sheryl Smith's Testimony is Inapposite

The Opponents' claim that the proposed Transfer Station is not necessary is quite nakedly based on the Opponents' desire to protect the oligopoly they enjoy for landfill disposal services in the Service Area. Mr. Donald Moran, Esq., appeared purportedly on

behalf of the Village of Fairmont City,² and argued essentially that a transfer station may be sited only if it is first proved that the existing landfill capacity in the Service Area is inadequate to satisfy the waste needs of the Service area. (See Transcript p. 63-4.) However, Mr. Moran did not cite any case supporting this bald assertion. Mr. Moran's witness, Ms. Sheryl Smith testified that the proposed Transfer Station is not necessary essentially because the Opponents operate landfills in the Service Area. (See Transcript pp. 73-79.) Ms. Smith's testimony regarding the five reasons she believes the proposed Transfer Station is unnecessary only underscore the dominant market position of the Opponents and does nothing to negate Applicant's evidence that the Transfer Station is "'expedient' or 'reasonably convenient' vis-a-vis the area's waste needs." *E&E Hauling*, 451 NE 2d at 573.

1. Existing Landfill Capacity is Irrelevant to the Need for a Transfer Station

Ms. Smith's first reason that the proposed Transfer Station is not necessary is that the landfills operated the Opponents provide sufficient disposal capacity for the next 20 years. (See Transcript p. 79.) However, as Mr. Moran and Ms. Smith well know, transfer stations do not add additional landfill disposal capacity. Instead, as Ms. Smith testified, transfer stations are intended to provide more cost effective means of transporting waste. (See Transcript p. 72.) Applicant concedes that the Opponents' landfills have substantial additional capacity remaining, but this fact does not negate the increased efficiencies and need for the proposed Transfer Station described above.

² Waste Management, Inc.'s Milam Landfill is located in Fairmont City and Waste Management, Inc. pays Fairmont City host fees with respect to the Milam Landfill. Mr. Moran, from the esteemed law firm of Pederson & Haupt, P.C. in Chicago, Illinois, is the long-time attorney for Waste Management, Inc. See, e.g., *Waste Management of Illinois, Inc. v. Pollution Control Board*, 463 N.E.2d 969 (1984) and *Waste Management of Illinois Inc. v. DeKalb County Board*, PCB 2010-104.

2. The Cost to Transport Waste From the Transfer Station to Remote Landfills is not Relevant to the Siting Criteria

Ms. Smith's second reason for claiming the Transfer Station is unnecessary is that, by her calculations it would cost \$12.65 to transport waste from the Transfer Station to the landfill located in Perry County. (See Transcript p. 79.) Even if Ms. Smith's calculations were correct, this hardly presents a reason to deny siting approval for the Transfer Station and instead is a business consideration for Applicant. Illinois law is clear that the necessity of a facility cannot be challenged by a claim that the facility would not be profitable. See *Turlek v. Pollution Control Board*, 653 N.E.2d 1288, 1293 (Ill. App. 1995). Under Ms. Smith's calculations (which Applicant does not accept), Applicant could compete with the Opponents if it could obtain reduced landfill disposal pricing and/or pricing premiums for increased service and convenience collectively amounting to \$12.65 per ton. The Opponents' rigorous opposition to this Application is motivated by their fear that the Transfer Station would in fact provide competition to their landfill disposal oligopoly.

3. Ms. Smith Distorts the Solid Waste Plan's Preference for Landfill Disposal

Ms. Smith's third stated reason why the Transfer Station is unnecessary is that the solid waste management plan identifies landfilling as the preferred disposal option. (Transcript p. 79.) Consistency with the county Solid Waste Management Plan is a separate criterion and is separate from whether there is a need for the proposed facility. See 415 ILCS 5/39.2(a)(i) and (viii). Moreover, as Ms. Smith well knows, for the purposes of the Solid Waste Management Plan, the preference for landfilling indicates only that the Plan does not provide for an alternative disposal method such as

incineration, and indicates nothing with respect to transfer stations. As Mr. Moran and Ms. Smith also well know, wastes accepted by the Transfer Station will ultimately be landfilled, which Ms. Smith claims is the preferred disposal method under the solid waste plan.

4. A Transfer Station Need not be Pre-Approved by the Solid Waste Plan to be Reasonably Efficient and Convenient

Ms. Smith outlandishly testified as her fourth reason that the Transfer Station is not necessary under the first criterion because there is no mention of it under the Solid Waste Management Plan, see Transcript p. 79, which was last updated in 2006. As noted above, the need for the proposed Transfer Station is a separate issue from consistency with the Solid Waste Management Plan. See 415 ILCS 5/39.2(a)(i) and (viii). Moreover, the Solid Waste Management Plan process is intended to cause counties to plan for adequate waste disposal capacity, not to stifle additional waste disposal options.

5. The Existence of Landfills Does Not Negate the Need for the Transfer Station

As her fifth and final reason that the Transfer Station is unnecessary, similar to her first reason, Ms. Smith testified that the Transfer Station is unnecessary because the Opponents' competing landfills are located between 10 and 17 miles from the proposed Site. For the reasons set forth above, neither the existence of existing landfill capacity nor the absence of mention of transfer stations in the Solid Waste Management Plan negate the strong need for the Transfer Station demonstrated by Applicant. Moreover, if the Opponents' landfills are 10 and 17 miles from the Site, that means that there are many residents for which the proposed Transfer Station would be a more convenient option. Moreover, the need for the Transfer Station is not based solely on distance but also the

increased efficiencies experienced, especially by smaller haulers, with respect to shorter waiting lines and less wear and tear on equipment from driving on landfill roads. (See Exhibit 14.)

b. Criterion 2: The Proposed Caseyville Transfer Station Is So Designed, Located And Proposed To Be Operated That The Public Health, Safety And Welfare Will Be Protected

The second criterion under the Act requires that "the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected." 415 ILCS § 5/39.2(a)(ii). The fact that a facility will be designed and operated in accordance with Illinois Environmental Protection Agency standards is sufficient evidence for approval under this standard. See *Wabash and Lawrence Counties Taxpayers and Water Drinkers Ass'n v. Pollution Control Board*, 555 NE2d 1081, 1086 (Ill. App. 1990). To show that the proposed facility is designed to protect public health, safety and welfare, the applicant need not submit written documentation "anticipating and addressing any objections which might be raised." *Tate v. Pollution Control Board*, 544 N.E.2d 1176, 1197 (Ill. App. 1989). The Applicant presented ample and uncontested documentation at the public hearing demonstrating that the Transfer Station is so designed, located and operated in a manner that is protective of human health and the environment.

i. Location

At the public hearing, the Applicant introduced a Regional Aerial (Exhibit 2, Figure 1) and an Area Land Use Map (Exhibit 2, Figure 2) which demonstrate the proposed Site is located so as to protect public health, safety and welfare. Figure 2 demonstrates that the only land uses within 1000 feet of the proposed Site include vacant

land, agricultural, and trucking, excavating and quarrying operations. Figure 2 further demonstrates that there are no residential land uses within 1000 feet of the proposed site. Neither the Opponents of the Transfer Station nor any public commenter at the hearing disputed the accuracy of Figure 1 or Figure 2, or identified any residential or other sensitive land use within the vicinity of the proposed Site.

Applicant also introduced substantial documentation that the Site location has been vetted for environmentally sensitive conditions. In particular, Applicant introduced as Wetlands Map as Exhibit 2, Figure 9, which shows that the U.S. Fish and Wildlife Service National Wetlands Inventory identifies no designated wetlands on or adjacent to the proposed Site. Applicant also introduced as Exhibit 8 documentation of the Applicant's Consultation for Endangered Species Protection and Natural Areas Preservation which demonstrates that there are no known state-listed threatened or endangered species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the proposed site. (See Exhibit 8.) Included in the record as Exhibit M of Exhibit 1 contains documentation that there are no sole source aquifers or public water supply wells in the vicinity of the proposed site. No Opponent or public commenter disputed the accuracy of the Wetlands Map or identified any environmentally sensitive conditions on or in the vicinity of the proposed Site.

ii. Design

Applicant introduced at the public hearing a Site Plan (Exhibit 2, Figure 4) and a Building Layout (Exhibit 2, Figure 5) showing the general site and building design and layout of the proposed Transfer Station, which were described at the public hearing.

Roxana's traffic expert, Mr. Dustin Riechmann, testified that the Application contained insufficient information for him to reach a conclusion with respect to the design because it contained insufficient detail. (See Transcript pp. 109-11.) What Mr. Riechmann fails to understand, however, is that the drawings at the local siting stage are preliminary and will undergo modification during the Illinois Environmental Protection Agency permitting process as well as local reviews by the St. Clair County Highway Department, the Caseyville Building Department and other agencies. As Mr. Riechmann readily admits, this is the first time he has ever performed a review of a transfer station local siting application. (See Transcript pp. 106-7.)

iii. Operations

Applicant's Plan of Operations is contained in the record of the public hearing in Section 5 of Applicant's Application for Local Siting Approval. (Exhibit 1.) The Plan of Operations describes in detail the management procedures that will be implemented at the facility including, among other things, practices to prevent and respond to spills, fires and accidents and to prevent acceptance of unauthorized materials. Exhibit 6 contains a letter from Caseyville Fire Department Deputy Fire Chief Randy Allard documenting that he reviewed the Plan of Operations and found no deficiencies from a fire safety perspective. Despite having over three months to review the Plan of Operations, no Opponent or public commenter identified any deficiency or threat to public health, safety or welfare associated with Applicant's Plan of Operations.

- c. **Criterion 3: The Proposed Caseyville Transfer Station Is Located So As To Minimize Incompatibility With The Character Of The Surrounding Area And To Minimize The Effect On The Value Of The Surrounding Property**

The third criterion under the Act requires that "the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property" 415 ILCS § 5/39.2(a)(iii). To satisfy this standard, an applicant must undertake to do what is "reasonably feasible to minimize incompatibility and impact on property values," but the Act "does not require a guarantee that there will be no incompatibility and impact on property values." *Fox Moraine, LLC v. United City of Yorkville*, 960 N.E.2d 1144, 1180 (Ill. App. 2011).

As demonstrated by Exhibit 2, Figure 2, the proposed Site is located in an area that is remote from any inconsistent land uses. In fact, the Site was selected specifically because there are no residential or even retail businesses in the vicinity. The character of the surrounding area is wholly consistent with the Transfer Station and includes only vacant, agricultural, quarrying, trucking and excavating land uses. (See Exhibit 2, Figure 2.) Based upon the complete absence of any inconsistent land uses, the Board should conclude that the Site was located in a manner to minimize incompatibility and loss of value to the surrounding property.

Mr. Moran asserts that "normally what you would see is there would be a study done to determine whether a proposed facility would have any impact on surrounding property value." (Transcript p. 65.) In fact, however, Mr. Moran has not and cannot cite any authority for his assertion that a study is required, and is directly contradicted by the actual case law stating that the Act "does not require a guarantee that there will be no incompatibility and impact on property values." *Fox Moraine*, 960 N.E.2d at 1180. Unable to present any substantive evidence or documentation to rebut the obvious fact that the proposed Site is remote and appropriate for the proposed land use, Mr. Moran

could only offer infirm procedural arguments. The Board should base its decision on common sense and the unrebutted evidence of surrounding land uses demonstrated by Exhibit 2, Figure 2.

d. Criterion 4: The Proposed Caseyville Transfer Station Is Located Outside The Boundary Of The 100 Year Floodplain

Section 39.2(a)(iv) of the Illinois Environmental Protection Act provides: "for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year floodplain or the site is flood-protected." 415 ILCS 5/39.2(a)(iv). At the public hearing, Applicant introduced as Exhibit 12 Panel 180 of 555 of the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) for St. Clair County (November 5, 2003) (Map No. 17163C0180D). Exhibit 12 demonstrates that the Site is included within "Zone X," which is outside of the 100-year floodplain, and as being protected from the 1% annual chance flood by the Mississippi River Levee System. A drawing showing the FIRM flood hazard information for the area surrounding the Site was introduced by Applicant as Exhibit 2, Figure 10, and the fourth criterion is clearly satisfied.

Neither the Opponents nor any public commenter presented any technical or scientific information contradicting the applicable Federal Emergency Management Agency Flood Insurance Rate Map. A public participant, Ms. Kathryn Mertzke, asserted that the Harding Ditch floods regularly, but did not provide any documentation that the proposed Site has ever been subject to flooding. (See Transcript p. 49.) Applicant submitted a letter from the owner of the proposed Site, Ralph Stanley, stating among other things that Mr. Stanley and his family have owned the Site since 1968, and that the

site has not been subject to flooding with the exception of the flood of 1993. (See Exhibit 6.)

e. **Criterion 5: The Plan Of Operations For The Proposed Caseyville Transfer Station Is Designed To Minimize Danger To The Surrounding Area From Fire, Spills Or Other Operational Accidents**

The fifth criterion under Section 39.2 is that "the plan of operations for the facility is designed to minimize danger to the surrounding area from fire, spills or other operational accidents." 415 ILCS § 39.2(a)(v). This standard does not require that the applicant can guarantee that no accident will ever occur, but rather that the risks from operations will be minimized. See *Wabash*, 555 NE2d at 1086.

The Plan of Operations for the proposed Transfer Station is included as Section 5 of Exhibit 1, Applicant's Application for Local Siting Approval. Applicant submitted the Plan of Operations to the Caseyville Fire Department for review. The results of that review were presented in a May 1, 2014 letter to the Caseyville Board of Trustees from Randy Allard, Deputy Fire Chief, Caseyville Fire Department, which stated as follows:

At the request of Caseyville Transfer Station, LLC, I reviewed the application for local siting approval for the proposed Caseyville Transfer Station. In particular, I reviewed their plan of operations. Their plan includes fire and accident prevention plans, fire prevention and control procedures, spill and accident prevention and control plans. Based on my review I find that Caseyville Transfer Station LLC complies with all Fire related codes and training. Their plans appear to be designed to minimize danger from fire, spills or accidents and meets current Life Safety Codes that have been set forth by the National Fire Protection Agency and the Office of the State Fire Marshal.

See Exhibit 6. At the public hearing and after the public hearing, neither any Objector nor any public commenter identified any flaws, deficiencies or risks with respect to Applicant's Plan of Operations. Applicant has proven that its Plan of Operations is

designed to minimize danger to the surrounding area from fire, spills or other operational accidents.

f. Criterion 6: The Traffic Patterns To And From The Proposed Caseyville Transfer Station Are So Designed As To Minimize The Impact On Existing Traffic Flows

The sixth criterion under Section 39.2 is that “the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.” 415 ILCS § 39.2(a)(vi). To satisfy this standard, an applicant is not required to eliminate all traffic problems, nor to “provide evidence of exact routes, types of traffic, noise, dust, or projections of volume and hours of traffic . . . but rather a showing that the traffic patterns to and from the facility are designed to minimize impact on existing traffic flows.” *Fox Moraine*, 960 N.E.2d at 1181. The applicant is not required to prepare or introduce a formal traffic study or traffic plan. *See Fairview Area Citizens Taskforce v. Pollution Control Board*, 555 N.E.2d 1178, 1186-7 (Ill. App. 1990).

Applicant introduced as Exhibit 2, Figure 6 a Site Traffic Pattern Map which shows the planned means of ingress and egress to and from the proposed Transfer Station. As shown on the Site Traffic Pattern Map, the site plan calls for separate points for ingress and egress to the facility and ample site queuing areas. (See Exhibit 2, Figure 2.) Applicant’s Exhibit 2, Figure 7 shows the primary routes to and from the facility.

Roxana attempted to create issues with respect to traffic through the testimony of Mr. Dustin Riechmann. Mr. Riechmann did not conduct a detailed or even scientific traffic study, but instead made random observations and took photographs in the vicinity of the proposed Site. (See Transcript pp. pp. 116-124.) Mr. Riechmann’s testimony

proves too much as, under his analysis, no truck traffic should be allowed on Bunkum Road at all.

Mr. Riechmann concludes, among other things, that: (1) the Highway 111 and I-64 Intersection has a "heavy congestion" condition based upon a single observation at 4:00 p.m. (*See* Transcript p. 117); (2) the intersection of Highway 111 and I-64 is unable to handle truck traffic based on an observation of rutting behind the curb line (*See* Transcript p. 117); and (3) he had a concern regarding blockage of the transfer station entrance due to freight train interference even though he admits that he did not observe such a condition (*See* Transcript p. 123.) Mr. Riechmann raises a number of other generalized concerns including the poor condition of Bunkum Road and the existence of a preschool program located approximately one mile east of the proposed Site (*See* Transcript pp. 122-124). These same considerations would apply to any business on Bunkum Road generating truck traffic, including the numerous trucking and industrial businesses already located on Bunkum Road. None of these issues raised by Mr. Riechmann provide a basis for denial of Applicant's Application. Furthermore, the St. Clair County Highway Department is in the process of improving Bunkum Road, see Exhibit 13, and most of Mr. Riechmann's analysis will be rendered moot by the road improvements.

Mr. Riechmann further testified that there are inadequate site distances to exist the proposed Site onto Bunkum Road. Mr. Riechmann admits, however, that he just estimated where the ingress and egress points would be. (*See* Transcript p. 125.) The single drawing submitted as part of Mr. Riechmann's testimony does not identify the

measurement point that Mr. Riechmann was using. (See Roxana Exhibit 1.) Quite simply, Mr. Riechmann's observations are unreliable and premature.

As stated at the hearing, the St. Clair County Highway Department will require Applicant to conduct a traffic study to be presented for the Department's review and approval prior to Applicant gaining access to Bunkum Road. (See Transcript p. 43; Exhibit 13.) As part of the traffic study Applicant will ensure that the exit from the Transfer Station complies with all AASHTO site line standards. As set forth above, the Village could approve Applicant's application for local siting but impose a condition with respect to the AASHTO site line standards.

g. Criterion 7: The Proposed Caseyville Transfer Station Will Not Be Treating, Storing Or Disposing Of Hazardous Waste

Section 39.2(a)(vii) of the Illinois Environmental Protection Act provides: "if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release." 415 ILCS 5/39.2(a)(vii). Because the Transfer Station will not be treating, storing or disposing of hazardous waste, this criterion is not applicable and thus has been satisfied.

h. Criterion 8: The Proposed Caseyville Transfer Station Is Consistent With The St. Clair County Solid Waste Management Plan

Section 39.2(a)(viii) of the Illinois Environmental Protection Act provide that "if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent

with that plan.” 414 ILCS 5/39.2(a)(vii). A copy of the St. Clair County Solid Waste Management Plan (the “Solid Waste Management Plan”), with revisions, was introduced at the public hearing as Exhibit P of Exhibit 1. As further described and explained in Section 8 of Exhibit 1, the Solid Waste Management Plan does not directly address transfer stations. It identifies landfilling as the preferred disposal method but expresses concern regarding receipt of out-of-state waste by the landfills operated by the Objectors. (See Exhibit 1, Section 6; Exhibit 1, Exhibit P.) The proposed Transfer Station would serve to transport waste from the Service Area to landfills outside the Service Area, is not prohibited by the Solid Waste Management Plan, and is therefore consistent with the Solid Waste Management Plan. While Mr. Moran appears to assert that a transfer station can only be approved if it was specifically called for in the Solid Waste Management Plan, he provides no legal authority for this outlandish claim.

i. Criterion 9: The Proposed Caseyville Transfer Station Will Not Be Located Within A Regulated Groundwater Recharge Area

Section 39.2(a)(ix) of the Illinois Environmental Protection Act provides: “if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.” 414 ILCS 5/39.2(a)(ix). As of the date of this Application, only one regulated recharge area has been designated, the Pleasant Valley Public Water District located in Peoria County, Illinois. As documented by the communications contained in Exhibit M of Exhibit 1, the Site is not located within a regulated recharge area or other groundwater protection area. At and after the public hearing, no Objector or public commenter identified any regulated recharge area or other

sensitive groundwater resource within the vicinity of the proposed Site. The ninth criterion is clearly satisfied.

3. THE ADDITIONAL OBJECTIONS RAISED BY ROXANA ARE SPURIOUS

a. Applicant Will Not Construct the Transfer Station Until all Appeals have Been Exhausted

Roxana sets forth a fanciful scenario under which the Village would approve the Transfer Station siting, Applicant would construct and begin operating the Transfer Station, and then the local siting decision would be overturned on appeal. (See Written Comment of Roxana Landfill, Inc. p. 8.) Common sense dictates that Applicant would be foolish to begin construction while an appeal is pending, and the doomsday scenario envisioned by Roxana is not even a remote possibility.

b. Applicant's Closure Estimate is Realistic

Roxana additionally, with no calculations or documentation, asserts that the cost to close the Transfer Station would be seven to ten times the estimates contained in the Application and that Applicant's estimate is flawed for assuming that only one day of waste would require disposal upon closure. (See id. p. 9.) Roxana appears to be arguing that the Transfer Station could be capable of storing more than one day's worth of waste. What Roxana ignores, however, is the Illinois regulations and the Host Community Agreement with the Village of Caseyville require that the tipping floor be cleaned at least every 24 hours, requiring that in fact one day of waste is the maximum amount of accumulation.

4. CONCLUSION

Applicant has proved by a preponderance of the evidence that each of the nine siting criteria is satisfied. The Opponents had ample opportunity to challenge the location of the proposed site for a Transfer Station, but offered only feeble and self-serving arguments and evidence.

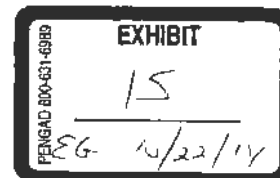
WHEREFORE, Caseyville Transfer Station, Inc. respectfully requests that the Board of Trustees of the Village of Caseyville, Illinois approve its Application for Local Siting Approval under Section 39.2 of the Illinois Environmental Protection Act.

Respectively submitted,

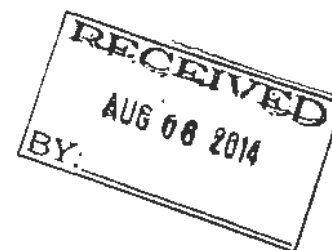
CASEYVILLE TRANSFER STATION, LLC

By: 

John P. Siemsen, Manager



BEFORE THE BOARD OF TRUSTEES
VILLAGE OF CASEYVILLE, ILLINOIS



IN RE: CASEYVILLE TRANSFER)
STATION, LLC'S APPLICATION)
FOR LOCAL SITING APPROVAL)

**APPLICANT CASEYVILLE TRANSFER STATION LLC'S OBJECTION TO
FALSE INFORMATION PRESENTED BY OPPONENTS
REGARDING 1000 FOOT SETBACK REQUIREMENT**

Applicant, Caseyville Transfer Station, LLC ("Applicant"), hereby presents this filing in opposition to the false and misleading information presented by opponents of Applicant's Application for Local Siting Approval.

1. The 1000 Foot Setback Requirement is Not Part of the Section 39.2 Siting Criteria

While it is true that the Applicant submitted documentation that the 1000 foot setback requirement is satisfied, the 1000 foot setback requirement is not contained in the local siting criteria under 415 ILCS 5/39/2(a). While the Illinois Environmental Protection Agency will not grant a development permit without documentation of compliance with the 1000 foot residential setback requirement, the Board need not make a finding on that issue under Section 39.2 of the Environmental Protection Act.

2. The Wasbington Park Parcel 02150203017 is Not Zoned R-1

Opponents of the application have submitted a statement by a Washington Park consultant stating that the parcel 02150203017 is zoned for R-1 residential. This statement is farcical for the following reasons:

- a. When Applicant approached Washington Park about locating the transfer station on Parcel 02150203017 applicant was told by Washington Park officials that the property was zoned "Industrial."
- b. Despite multiple requests by Applicant, the Village of Washington Park has never been able to produce a copy of its zoning ordinance or zoning map.
- c. A portion of the Parcel 02150203017 which Washington Park now claims is zoned R-1 is occupied by a trucking terminal occupied by Rush Trucking. The Manager of Applicant, John Siemsen, attended the meeting of the Board of Trustees of Washington Park at which the business license for Rush Trucking was approved. There was no discussion of the subject parcel being zoned as R-1, which would obviously have been inconsistent with the Rush Trucking business.
- d. The Manager of Applicant, John Siemsen, has spoken with the owner of Parcel 02150203017 and such owner has no knowledge of any position by the Village of Washington Park that the parcel is zoned for residential use.

In any case, the Applicant has an option to purchase the land that the opponents claim is zoned for residential use and Applicant could purchase such parcel and agree to permanent deed restrictions prohibiting residential use on the relevant portion of Parcel 02150203017.

3. The Properties South of I-64 Cannot be Used for Residential Development

The opponents of the Application have submitted information indicating that there are properties south of I-64 that are zoned for residential use. However, as fully documented in Exhibit J to the Applicant's Application for Local Siting, all of the parcels within 1000 feet of the proposed site were part of a Federal Emergency

Management Agency buyout and such parcels have permanent deed restrictions prohibiting any future residential land use. The information presented by the Applicant opponents is false and misleading. .

Respectively submitted,

CASEYVILLE TRANSFER STATION, LLC

By:



John P. Siemsen, Manager