

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROXANA LANDFILL, INC.)
)
 Petitioner,)
)
 v.)
)
 VILLAGE BOARD OF THE VILLAGE OF)
 CASEYVILLE, ILLINOIS; VILLAGE OF)
 CASEYVILLE, ILLINOIS; and)
 CASEYVILLE TRANSFER STATION, LLC,)
)
 Respondents.)

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

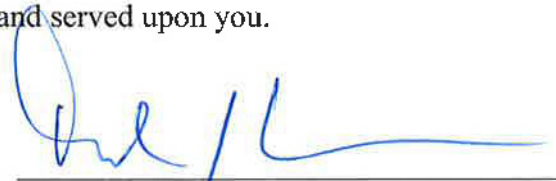
_____)
)
 VILLAGE OF FAIRMONT CITY, ILLINOIS,)
)
 Petitioner,)
)
 v.)
)
 VILLAGE OF CASEYVILLE, ILLINOIS)
 BOARD OF TRUSTEES and CASEYVILLE)
 TRANSFER STATION, LLC,)
)
 Respondents.)

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

NOTICE OF FILING

TO: SEE ATTACHED CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on the 27th day of October, 2014, we filed with the Illinois Pollution Control Board, **Village of Fairmont City's Motion for to Exclude Certain Documents from Record on Appeal**, a copy of which is attached and served upon you.

By: 

 Donald J. Moran

Donald J. Moran
 PEDERSEN & HOUP
 161 North Clark Street
 Suite 2700
 Chicago, Illinois 60601
 Telephone: (312) 641-6888

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v.)	PCB 15-65
)	(Third Party Pollution Control
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VILLAGE OF FAIRMONT CITY, ILLINOIS,)	
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)	(Third Party Pollution Control
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VILLAGE OF FAIRMONT CITY'S MOTION TO EXCLUDE CERTAIN DOCUMENTS FROM RECORD ON APPEAL

NOW COMES the Village of Fairmont City ("Fairmont City"), by its attorneys Sprague & Urban and Pedersen & Houpt, P.C., pursuant to Section 101.502 of the Pollution Control Board Procedural Rules and for its motion to exclude from the Record four documents filed by the Applicant without permission or authority, states as follows:

1. Caseyville Transfer Station, LLC ("CTS") filed an Application for Local Siting Approval for a solid waste transfer station with the Village of Caseyville in February, 2014. The Village held a public hearing regarding the Application on May 29, 2014. The Village Board of Trustees approved the Application on August 6, 2014.

2. Section 39.2(d) of the Environmental Protection Act (415 ILCS 5/39.2 (2012)) provide that the public hearing shall allow the development of a "record sufficient to form the basis of appeal of the decision ..." In addition to the information presented or submitted at the public hearing, the Act also provides that the Village "shall consider any comment received or postmarked not later than 30 days after the date of the last public hearing." 415 ILCS 39.2(c). The Act does not authorize the receipt or admission of any submissions beyond what is described in Section 39.2(c) and (d). Moreover, the Village did not adopt any local siting ordinance or rules and procedures governing the receipt or admission of pleadings or evidence in the local siting process.

3. Fairmont City and Roxana Landfill, Inc. participated in the May 29 public hearing. Both parties requested, and received, permission from the Village to file a post-hearing memorandum within the 30-day written comment period, that is, to and including June 28, 2014. (Transcript of May 29, 2014 Public Hearing, p. 138).

4. Fairmont City and Roxana Landfill, Inc. filed their post-hearing memoranda with the Village on or before June 28, 2014.

5. CTS neither requested nor received permission from the Village to file a post-hearing memorandum. CTS filed no documents within the 30-day written comment period.

6. CTS, without permission or a notice of filing, filed the following documents with the Village on July 9, 2014:

1. Applicant Caseyville Transfer Station LLC's Post-Trial Summary (F0002 - 0022.01);
2. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to to Roxana Landfill, Inc.'s Motion to Dismiss Based on Jurisdiction (F0030 - 0034); and
3. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to to Roxana Landfill, Inc.'s Motion to Dismiss Based on Fundamental Fairness (F0023 - 0026).

7. CTS, without permission or a notice of filing, filed "Applicant Caseyville Transfer Stations LLC's Objection to False Information Presented By Opponents Regarding 1000 Foot Setback Requirement" with the Village on August 6, 2014, the day of the decision.

8. The CTS documents filed July 9 and August 6 were filed after the post-hearing written comment deadline of June 28, 2014, and without permission or authority. They were not properly included in the record, and should be stricken from the record.

WHEREFORE, for the foregoing reasons, Fairmont City respectfully requests that the following documents be removed from the record:


1. Applicant Caseyville Transfer Station LLC's Post-Trial Summary (F0002 - 0022.01)
2. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to to Roxana Landfill, Inc.'s Motion to Dismiss Based on Jurisdiction (F0030 - 0034)
3. Applicant Caseyville Transfer Station LLC's Memorandum in Opposition to to Roxana Landfill, Inc.'s Motion to Dismiss Based on Fundamental Fairness (F0023 - 0026)
4. Applicant Caseyville Transfer Stations LLC's Objection to False Information Presented By Opponents Regarding 1000 Foot Setback Requirement (F0027 - 0029)

and for such other and further relief as the Hearing Officer deems appropriate.

Dated: October 27, 2014

Respectfully submitted,

VILLAGE OF FAIRMONT CITY

By: 
One of its Attorneys

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

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
Telephone: (312) 641-6888

CERTIFICATE OF SERVICE

Donald J. Moran, an attorney, on oath states that he served the foregoing Village of Fairmont's City's Motion to Exclude Certain Documents from Record on Appeal, on the following parties by depositing same in the U.S. mail at 161 N. Clark Street, Chicago, Illinois 60601, on this 27th day of October, 2014.

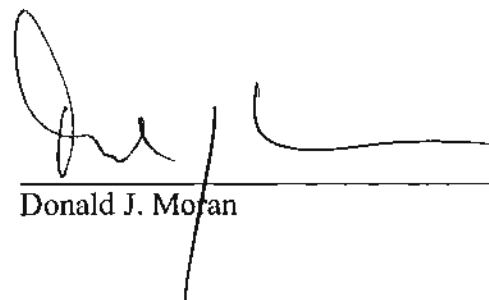
Village of Caseyville
c/o Rob Watt, Clerk
909 S. Main Street
Caseyville, Illinois 62232

Penni S. Livingston
5701 Perrin Rd.
Fairview Heights, IL 62208
penni@livingstonlaw.biz

J. Brian Manion
Weilmuenster Law Group, P.C.
3201 West Main Street
Belleville, IL 62226
jbrn@weilmuensterlaw.com

Jennifer J. Sackett-Pohlenz
CLARK HILL PLC
150 N. Michigan Avenue
Suite 2700
Chicago, IL 60601
JPohlenz@ClarkHill.com

Carol Webb
Carol.Webb@illinois.gov
By e-mail only



Donald J. Moran