ORIGINAL

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 7th day of November, 2014, we filed with the Illinois Pollution Control Board, **Village of Fairmont City's Post-Hearing Brief**, a copy of which is attached and served upon you.

By: _____
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CERTIFICATE OF SERVICE

Donald J. Moran, an attorney, on oath states that he served the foregoing **Village of Fairmont City's Post-Hearing Brief**, on the following parties electronically and by depositing same in the U.S. mail at 161 N. Clark Street, Chicago, Illinois 60601, on this 7th day of November, 2014.

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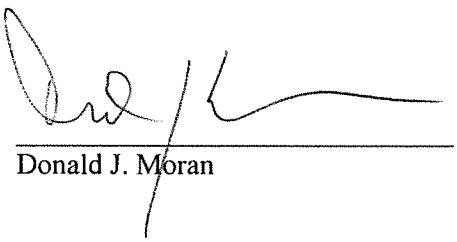

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VILLAGE OF FAIRMONT CITY'S POST-HEARING BRIEF

NOW COMES Petitioner Village of Fairmont City ("Fairmont City"), by its attorneys Sprague & Urban and Pedersen & Houpt, P.C., and hereby submits its Post-Hearing Brief regarding its appeal of the August 6, 2014 decision of the Village of Caseyville ("Village") which granted site location approval for the proposed Caseyville Transfer Station.

I. INTRODUCTION

Fairmont City requests reversal of the Village's site location approval because (1) the local siting proceedings were fundamentally unfair, (2) the applicant, Caseyville Transfer Station, LLC ("CTS"), failed to demonstrate compliance with criteria (i), (ii), (iii), (viii), (3) the

Village's rulings on criteria (i), (ii), (iii), and (viii) are against the manifest weight of the evidence, and (4) the location of the proposed transfer stations violates Section 22.14 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/22.14 (2012).

A non-applicant who participates in a local siting hearing has a statutory right to fundamental fairness, which incorporates minimal standards of procedural due process, including the opportunity to be heard, the right to cross-examine adverse witnesses, and impartial rulings on the evidence. CTS presented only one witness at the public hearing, Mr. John Siemsen, who did not testify under oath, but only by unsworn oral comments, and thus was not subject to cross-examination. This denied Fairmont City and Petitioner Roxana Landfill, Inc. ("Roxana") their fundamental fairness right to cross-examine CTS's witness.

With respect to the statutory criteria, CTS failed to apply the proper analysis to demonstrate compliance with criterion (i). It did not determine the waste production and the waste disposal capacity of the identified service area. It provided no evidence showing how the proposal transfer station would save or decrease transportation costs or achieve more efficient waste collection, management and disposal. In contrast, unrebutted expert testimony established that the proposed transfer station was not necessary and did not satisfy criterion (i).

Regarding criterion (iii), CTS did not properly assess the character of the surrounding area. It performed no study of land uses or property values in the surrounding area, and thus was unable to even suggest what reasonably might be done to minimize any effect. It failed to identify six parcels of real estate located within 1000 feet of the proposed transfer station that were zoned by St. Clair County for primarily residential use.

Finally, CTS offered no factual or legal support for the notion that the proposed waste transfer station is consistent with the county solid waste management plan (criterion viii), especially as the plan neither authorizes nor mentions waste transfer stations.

Thus, even though CTS's only witness was protected from cross-examination, CTS failed to demonstrate compliance with criterion (i), (ii), (iii) and (viii). As the Village based its approval on this insufficient demonstration that the statutory criteria were met, and ignored undisputed expert testimony on criterion (i), (ii), (vi)[1] and (viii), the Village approval is against the manifest weight of the evidence and should be reversed.

II. FILING OF APPLICATION, PUBLIC HEARING AND VILLAGE DECISION

CTS filed an application for local siting approval with the Village pursuant to Section 39.2 of the Act. CTS sought local siting approval for a new 5-acre municipal solid waste transfer station located in the Village. Application for Local Siting Approval ("Siting Application"), Petitioner's Exhibit 1, p. 1. While CTS claimed that it filed an application with the Village on February 10, 2014, there is no written evidence or documentation that the application was received by or filed with the Village on that day[2].

A public hearing on the Siting Application was held on May 29, 2014. Petitioner presented its case through Mr. Siemsen, who provided oral remarks and comments in support of the Siting Application. Mr. Siemsen is the sole manager of CTS. (May 29, 2014 Transcript of Public Hearing ("May 29 Tr.") at 5.) He testified on the nine siting criteria. He did not address the "tenth" criteria, which involves the previous operating experience of CTS in the field of solid

[1] Roxana addresses in its brief the insufficiency of CTS's demonstration regarding criterion (ii) and (vi) and the fact that the Village approval of criteria (ii) and (vi) is against the manifest weight of the evidence. Fairmont City joins the argument presented by Roxana regarding criteria (ii) and (vi).

[2] Roxana addresses in its brief the issue of the siting application's filing date. Fairmont City joins in the argument presented by Roxana regarding this issue.

waste management. 415 ILCS 5/39.2(a). Mr. Siemsen did not provide his comments under oath, and thus was not available for, or subjected to, cross-examination. Two expert witnesses, Ms. Sheryl Smith and Mr. Dustin Riechmann, testified, under oath, with respect to the statutory criteria. Ms. Smith testified regarding criterion (i), and concluded that the proposed transfer station was not needed and did not satisfy this criterion. Mr. Riechmann testified regarding criterion (vi), and concluded that CTS did not demonstrate compliance with criterion (vi). The testimony of Ms. Smith and Mr. Riechmann was neither challenged nor rebutted.

On August 6, 2014, the Village voted 4 to 1 to approve the site location request. (August 6, 2014 Transcript of Special Meeting to Approve Application ("Aug. 6 Tr.") at 9-14; G0009-0014)[3]. In voting to approve the request, the trustees were asked by the Village's attorney if they had any reasons for their decision. Trustee Davis stated "my reason is that the Village is in financial dire straits, and this is a revenue source for the Village we can certainly use" (August 6 Tr. at 12; G0012).

III. STANDARD OF REVIEW

Section 40.1 (a) of the Act requires the Board to review the proceedings before the Village to ensure fundamental fairness. 415 ILCS 5/40.1(a). A non-applicant who participates in a local siting hearing has a statutory right to fundamental fairness. Land & Lakes Co. v. Illinois Pollution Control Bd., 319 Ill.App.3d 41, 47, 743 N.E. 2d 188, 190 (3rd Dist. 2000). This right to fundamental fairness incorporates minimal standards of procedural due process, including the opportunity to be heard, the right to cross-examine adverse witnesses, and impartial rulings on the evidence. Stop the Mega-Dump v. County Bd. et al., 2012 IL App. (2d) 110579, ¶ 27, citing Fox Moraine, LLC v. United City of Yorkville, 2011 IL App. (2d) 100017, ¶ 60. The

[3] References to the siting record before the Village of Caseyville will be made to both public hearing and meeting transcripts ("__Tr. at ___") and record page number ("A00__"). References to the Pollution Control Board fundamental fairness hearing will be made to the transcript page number ("October 28 Tr. at __").

standard of review for this Board's review of fundamental fairness is de novo. Land & Lakes Company, 319 Ill. App. 2d at 48; Timber Creek Homes, Inc. v. Village of Round Lake Park, et al., No PCB 14-99, slip op. at 11 (August 21, 2014).

Siting approval may only be granted if the applicant proves that the proposed transfer station meets all nine statutory criteria. Town & Country Utils., Inc. v. Ill. Pollution Control Bd., 225 Ill. 2d 103, 117 (2007). The standard of review for Board review of the criteria is manifest weight of the evidence. Town & Country Utils., 225 Ill. 2d at 105. Which the Board may not reweigh the evidence on the siting criteria or substitute its judgment for that of the Village, the Board must determine that the evidence supporting the decision is competent, sufficient and presented by a credible witness. Industrial Fuels & Resources/Illinois, Inc. v. Illinois Pollution Control Bd., 227 Ill.App.3d 533, 592 N.E. Ed. 148, 154, 156-159 (1st Dist. 1992); *see* Metropolitan Waste System, Inc. v. Pollution Control Bd., 201 Ill. App.3d 51, 558 N.E. 2d 785, 788 (3rd Dist. 1990) (PCB has duty to weigh credibility of witnesses).

Consideration of public comment, or unsworn testimony, is appropriate in the siting process. City of Geneva v. Waste Management of Illinois, Inc., et al., PCB 94-58 (July 21, 1994). However, public comments are not accorded the same weight as expert testimony given under oath and subject to cross-examination. Unsworn testimony or public comments receive lesser weight. Landfill 33, Ltd. V. Effingham County Board & Sutter Sanitation Services, PCB 03-43, slip op. at 9 (February 20, 2003). In evaluating the sufficiency and credibility of the evidence presented to the local decisionmaker, the Pollution Control Board, like the local decisionmaker, is not free to ignore or disregard competent and unrebutted testimony on the siting criteria. Industrial Fuels, 592 N.E. 2d at 154, 159; *see* Anderson v. Zamir, 402 - Ill.App.3d

362, 931 N.E. 2d 697 (5th Dist. 2010) (factfinder not allowed to disregard uncontradicted or unimpeached testimony).

A decision is against the manifest weight of the evidence where the opposite result is clearly evident, or where the local decision maker's findings are unreasonable, arbitrary and not based on the evidence. Maple v. Gustafson, 151 Ill. 2d 445, 454 (1992); Timber Creek Homes, slip op. at 12.

IV. ARGUMENT

A. Hearing Officer Erroneously Denied Motion to Exclude Late-filed Pleadings from Record

In the proceedings before the Village, CTS filed (1) responses to Petitioner Village of Roxana's motions to dismiss after the time for filing written comments had expired, and (2) an objection to evidence regarding the 1000-ft setback requirement on the day of the Village's decision, August 6, 2014. Fairmont City filed a Motion to Exclude those documents from the siting record for the reasons that they were filed without permission and beyond the time allowed in Section 39.2 (c) of the Act. Village of Fairmont City's Motion to Exclude Certain Documents from Record on Appeal, ¶¶ 5-8. The Pollution Control Board Hearing Officer denied the motion, stating that "I'm going to deny the motion to exclude because I know the Board accepts comments from parties that respond, you know, after the -- you know, that respond to public comment." (October 28, 2014 Transcript of Report of Proceedings ("Oct. 28 Tr." at 22).

The Act provides that the public hearing before the local decisionmaker shall allow the development of a record sufficient to form the basis for an appeal of the decision, and that the local decision maker shall consider any comments received within 30 days of the last public hearing. 415 ILCS 5/39.2(c). The Act does not allow the submission of comments after the 30-day post-hearing comment period, or the submission of responses after that period to timely-filed

written comment. 415 ILCS 5/3.92; *see* Land & Lakes Company, 319 Ill.App.3d at 43, 48 (county board properly confined itself to the record developed during the public hearing and public comment period, and party cannot cross-examine material submitted as public comment). In addition, the Act does not require that the public comment period be held open to allow parties to respond to materials submitted on the last day. Land & Lakes Company, 319 Ill.App.3d at 43.

CTS did not request permission to submit materials after the 30-day post-hearing comment period, which ended on June 28, 2014. Instead, it filed, without notice, a post-trial summary and memoranda in opposition to Roxana's motion to dismiss on July 9, 2014. Almost one month later, it filed, again without notice, an objection to information presented by Fairmont City and St. Clair County regarding the 1000-ft setback requirement. In fact, this material was apparently filed, based on the date-stamp applied to its first page, on the day the Village rendered its decision granting site location approval, August 6, 2014.

There is no statutory, administrative or common law authority for the submission of materials after the 30-day post-hearing comment period. Moreover, the Hearing Officer's ruling would allow the filing of any materials through the date of the local government decision, thereby undermining the fundamental fairness of the procedures by nullifying the 30-day post-hearing timing provision and precluding the Village from making the complete record available to the individual decisionmakers prior to their deliberation and decision. For these reasons, the Hearing Officer's denial of the motion to exclude should be reversed and the following documents should be stricken from the record:

1. Applicant Caseyville Transfer Stations LLC's Post -Trial Summary (F0002-0022.01)

2. Applicant Caseyville Transfer Stations LLC's Memorandum in Opposition to Roxana Landfill, Inc.'s Motion to Dismiss Based on Jurisdiction (F0030-0034)

3. Applicant Caseyville Transfer Stations LLC's Memorandum in Opposition 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)

B. Village Decision on Criterion (i) Is Against the Manifest Weight of the Evidence

To establish criterion (i), CTS was required to show that the transfer station is reasonably required by the waste needs of the service area, taking into consideration the waste production of the area and its waste disposal capability. Waste Management of Illinois, Inc. v. Pollution Control Bd., 175 Ill.App.3d 1023, 1031, 530 N.E.2d 682, 689 (2d Dist. 1988). Need involves consideration of increased costs of transporting and disposing waste, and whether the proposed facility will ensure that service area waste will be disposed of in an environmentally sound and cost-efficient manner. Wabash & Lawrence Counties Taxpayers & Water Drinkers Ass'n. v. Pollution Control Bd., 198 Ill.App.3d 388, 555 N.E.2d 1081, 1086 (5th Dist. 1990). Failure to consider available disposal capacity is fatal to a request to find need. A.R.F. Landfill, Inc. v. Pollution Control Bd., 174 Ill.App.3d 82, 528 N.E.2d 390, 396 (2d Dist. 1988).

Mr. John Siemsen was the Applicant's only witness who spoke at the public hearing concerning the Siting Application. Mr. Siemsen stated that criterion (i) requires a showing that the proposed transfer station is "expedient or reasonably convenient to help serve the area's waste management needs." (May 29 Tr. at 25.) He acknowledged that the area has plenty of landfill capacity - the Roxana, Milam and Cottonwood Hills landfills) - but claimed this capacity "doesn't mean that a transfer station wouldn't be reasonable and convenient and expedient for the waste management needs of this area." (May 29 Tr. at 25.) He admitted that these three landfills are convenient, but added that "there are no transfer stations." (May 29 Tr. at 8.) He later

clarified that there are two transfer stations in the area, but simply said that they are not convenient. (May 29 Tr. at 8, 25-26.)

The service area for the proposed facility is "essentially the Metro East area", and comprises Madison, St. Clair and Monroe counties. (May 29 Tr. at 15.) The facility proposes to accept municipal waste from local residents and businesses in the service area, consolidate that waste within the enclosed transfer station building, and then load the waste into semi-trailer vehicles for transport to licensed Subtitle D landfills located outside the service area. (May 29 Tr. at 13.) While he did not specifically identify these landfills, he indicated that once the facility was constructed, "we'll be negotiating with various landfills for legal disposal of the waste." (May 29 Tr. at 15-16.)

Mr. Siemsen stated that the transfer station is necessary because "it's going to increase competition within this area." (May 29 Tr. at 26.) According to Mr. Siemsen, there are only two waste disposal options in the area: Waste Management and Allied Waste. (May 29 Tr. at 26.) The transfer station would allow a municipality to "collect its own waste with its own trucks", and would "help local haulers who will have a third option in their disposal." (May 29 Tr. at 26-27.)

Finally, Mr. Siemsen stated that "Southwest Illinois has the fewest transfer stations on both the population and geography basis." (May 29 Tr. at 28.) He pointed out that the Chicago Midland Metro Area has .57 transfer stations per 100,000 people, and 11 transfer stations per 1,000 square miles, while the comparable numbers for the Metro East area are .36 and .4, respectively. (May 29 Tr. at 28.)

Mr. Siemsen offered no specific evidence on waste production in the service area or waste disposal capabilities (i.e., landfill capacity of Cottonwood Hills, North Milam and Roxana)

in the service area. He provided no information on how the proposed facility will save or decrease transportation costs or achieve more efficient waste collection, management and disposal.

Ms. Sheryl Smith provided expert testimony, under oath, regarding criterion (i). Ms. Smith is an environmental consultant and senior project manager with the URS Corporation, and has over 30 years of experience in the solid waste industry. (May 29 Tr. at 69-70.) She has performed 32 need assessments in siting cases, finding both need and no need depending on the facts of each case. (May 29 Tr. at 71.)

Ms. Smith explained that the purpose of a waste transfer station is to provide a more cost-effective means of transporting and disposing waste. This may be accomplished when service area landfills reach capacity, and more distant landfills need to be used to provide an alternative for the diminished or exhausted capacity of service area landfills. (May 29 Tr. at 72.)

Her method is to project the amount of waste produced or generated within the service area over a specified time period, and then consider the disposal capacity available to receive that waste and determine whether the capacity is sufficient to handle the amount of waste generated. (May 29 Tr. at 72-73.) If the waste disposal capacity meets or exceeds the amount of waste generated over the specific time period, there is no need for the proposed facility. (May 29 Tr. at 78.)

Ms. Smith determined that the amount of waste produced or generated in the service area will be approximately 333,000 tons per year. Over a 20-year time period, the total amount of waste generated will be between 6.8 million and 10.3 million tons, depending on the recycling goals that are met. (May 29 Tr. at 73.) She then determined that the amount of disposal capacity available at the existing Cottonwood Hills, North Milam and Roxana landfills for the waste

produced in the service area is approximately 47.8 million tons. (May 29 Tr. at 77.) Therefore, there is no shortfall of supply (waste disposal capacity available) when measured against demand (waste generated), and the waste generated in the service area can be accommodated by existing capacity for at least the next 20 years. (May 29 Tr. at 77-78.)

Ms. Smith also addressed the subject of transportation costs. As CTS did not identify the landfill(s) to which it intended to transport service area waste, Ms. Smith was asked to assume that the proposed transfer station would transport waste to the landfill in Perry County, one of the landfills closest to, but outside of, the service area. She determined travel distance, time and cost for service area waste that would be transported to the Perry County landfill and compared them for waste transported to the North Milam and Roxana landfills. (May 29 Tr. at 75-76.) Assuming that the waste would be transferred from Caseyville, the numbers for waste transfer to North Milam (NM) and Perry County (PC) are as follows: distance (roundtrip): 20 miles (NM) versus 144 miles (PC); time (roundtrip): one hour (NM) versus three hours (PC); and cost: $3.65 per ton (NM) versus $12.65 per ton (PC). (May 29 Tr. at 75-76.) The numbers for waste transfer to Roxana (R) and Perry County are: (roundtrip) distance: 34 miles (R) versus 144 miles (PC); time (roundtrip): one hour (R) versus three hours (PC); and cost: $4.65 per ton (R) versus $12.65 per ton (PC). (May 29 Tr. at 76.)

Ms. Smith concluded that the proposed transfer station is not necessary to accommodate the waste needs of the service area. The reasons for her opinion were not contradicted: (1) the existing landfills in the service area have disposal capacity sufficient to handle the waste produced in the service area for the next 20 years; (2) the cost of transporting waste out of the service area will be greater than the current cost of transporting waste to the existing service area landfills; (3) the county solid waste plan for Madison, Monroe and St. Clair counties identifies

landfilling as the preferred disposal option; (4) the county solid waste plan does not approve or identify waste transfer stations as a component of the counties' solid waste management system; and (5) the county solid waste plan identified direct haul as the means of disposal. (May 29 Tr. at 79.)

Ms. Smith's testimony on criterion (i) was unrebutted. Because the supply of available disposal capacity at direct-haul service area landfills exceeds the amount of service area-generated waste requiring disposal over the next 20 years, there is no need for the proposed transfer station. (May 29 Tr. at 77-79.) The Village ignored Ms. Smith's uncontested and unimpeached testimony. CTS argued only that the proposed transfer station is necessary to increase competition in the area. This, however, is not a proper or relevant factor in establishing need under criterion (i). Therefore, the Village approval of criterion (i) is against the manifest weight of the evidence.

C. The Village Decision on Criterion (iii) Is Against the Manifest Weight of the Evidence

Mr. Siemsen provided comments on criterion (iii), which requires that CTS demonstrate that the 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." 415 ILCS 5/39.2(a)(iii).

To establish criterion (iii), CTS must demonstrate more than minimal efforts to reduce the transfer station's incompatibility. File v. D&L Landfill, Inc., 219 Ill.App.3d 897, 579 N.E. 2d 1228 (5th Dist. 1991). CTS must show that it has done or will do what is reasonably feasible to minimize incompatibility and effect on the value of surrounding property. Waste Management of Illinois, Inc. v. Illinois Pollution Control Bd., 123 Ill.App.3d 1075, 1090, 463 N.E. 2nd 969, 980 (2d Dist.1984).

Mr. Siemsen said very little regarding criterion (iii). His basic point was that the proposed site is removed from residential and retail uses, so it is appropriate for a transfer station. (May 29 Tr. at 24, 38.)

However, CTS did not properly assess the character of the surrounding area, or evaluate the value of the surrounding property at all. It performed no study of land uses or property values in the surrounding area. It did not perform an evaluation of zoning and land use, or determine whether and to what extent there was any incompatibility that must be minimized. It made no effort to even consider values of surrounding property, much less determine the proposed facility's effect on those values, and so was unable to determine what reasonably could be done to minimize any effect.

CTS did mention the 1000-feet setback requirement in Section 22.14(a) of the Act, but claimed, inaccurately, that there are no residential land uses or dwellings within 1000 feet of the site. (Siting Application, p. 26) Section 22.14 provides that "(n)o person may establish any pollution control facility for use as a garbage transfer station, which is less than 1000 feet from the nearest property zoned for primarily residential uses or within 1000 feet of any dwelling." 415 ILCS 5/22.14(a).

In his affidavit, Mr. Dallas Alley, the Administrative Assistant to the Director of Building and Zoning for St. Clair County, Illinois, stated there are four parcels of property zoned SR-MH (Single Family District - Manufactured Home District) by St. Clair County located within 1000 feet of the proposed transfer station, and two parcels zoned MHP (Manufactured Home Park District) by St. Clair County located within 1000 feet of the proposed transfer station. (Affidavit of Dallas Alley ¶¶ 9-11)

The Village approval of criterion (iii) is against the manifest weight of the evidence. The evidence clearly showed that:

a. No compatibility evaluation was performed.

b. No survey of land uses or zoning in the surrounding property was performed.

c. No information regarding surrounding property values was provided.

d. No property value impact analysis was presented.

e. No information or evidence was presented regarding any reasonable feasible steps the Applicant has taken or will take to minimize incompatibility and effect on property value.

f. There are four parcels (02150403033, 02150503034, 02150404015 and 02150405014) zoned SR-MH (Single Family District - Manufactured Home District) by the St. Clair County Zoning Ordinance, each of which is located within 1000 feet of the proposed transfer station.

g. There are two parcels (0215040411 and 02150404013) zoned MHP (Manufactured Home Park District) by the St. Clair County Zoning Ordinance, both of which are located within 1000 feet of the proposed transfer station.

h. The location of the proposed transfer station violates Section 22.14(a) of the Act.

D. The Village Decision on Criterion (viii) Is Against the Manifest Weight of the Evidence

To establish criterion (viii), CTS must demonstrate that the intent of the county solid waste management plan, as indicated by its plain language, is to provide for or approve waste transfer stations as a component of the plan's preferred or selected system for solid waste management. County of Kankakee v. Ill. Pollution Control Bd., 396 Ill.App.3d 1000, 955 N.E. 2d 1 (3rd Dist. 2009); Landfill 33, Ltd. v. Effingham County Board & Sutter Sanitation Services, PCB 03-43, slip op. at 29 (February 20, 2003).

Mr. Siemsen's comments regarding criterion (viii) were irrelevant, and illogical: since the county solid waste plan expresses concern that a large amount of waste disposed at service area landfills is coming from Missouri, the proposed transfer station, because it will allow for waste to be exported out of the service area for disposal in landfills outside the service area, will be consistent with the plan. (May 29 Tr. at 44-45.) In other words, because the plan identifies a need to control the import of out-of-state waste coming into service are landfills, the proposed transfer station, by providing access to more distant landfills outside the service area, will help reduce the extent to which St. Clair County is an importer of solid waste. (Siting Application, p. 42.)

CTS did not explain how diverting service area waste from service area landfills, and thus increasing the capacity and extending the life of service area landfills so that they are able to accept more out-of-state waste, promotes the plan's importation concern rather than subverts it. In fact, exporting service area waste out of county will enhance the ability of service area landfills to receive out-of-state waste.

CTS offered no information or evidence that the plain language of the plan, or the intent of the County, provided for or approved a solid waste transfer station located in the service area to be part of the overall solid waste management system for the area. Mr. Siemsen acknowledged that the plan does not even mention transfer stations "one way or the other." (May 29 Tr. at 44.)

The Village decision on criterion (viii) is against the manifest weight of the evidence. Indeed, there is no evidence in the record to support the decision. There is no information or facts showing how the transfer station would promote or achieve any purpose or objective of the plan. Rather than help control the import of out-of-state waste into service area landfills, which

is a concern stated in the plan, the proposed transfer station would instead enable greater import of out-of-state waste into service area landfills.

Finally, the plan does not call for or recommend transfer stations as a component of the overall system of solid waste management for St. Clair, Madison and Monroe counties, and does not endorse or approve the operation of transfer stations as part of the overall system of solid waste management for St. Clair, Madison and Monroe counties.

V. CONCLUSION

For the reasons stated above, Petitioner Village of Fairmont City respectfully requests that the decision of the Village of Caseyville granting site location approval for the proposed solid waste transfer station be reversed.

November 7, 2014

Respectfully submitted,

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