

ILLINOIS POLLUTION CONTROL BOARD

ENVIRONMENTAL RECYCLING AND)	
DISPOSAL SERVICES, INC.)	
)	
Petitioner,)	PCB 16-76
)	
v.)	
)	
WASTE MANAGEMENT OF ILLINOIS, INC.)	
WILL COUNTY AND WILL COUNTY BOARD)	
)	
Respondents.)	

NOTICE OF FILING

To: See attached Service List.

PLEASE TAKE NOTICE that on August 31, 2016, I filed with the Illinois Pollution Control Board, **Closing Brief of Petitioner**, a copy of which is attached hereto and herewith served upon you.

Dated: August 31, 2016

Respectfully Submitted,

ENVIRONMENTAL RECYCLING AND
DISPOSAL SERVICES, INC.

By: /s/George Mueller
George Mueller, Attorney

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ENVIRONMENTAL RECYCLING AND)	
DISPOSAL SERVICES, INC.)	
)	
Petitioner,)	PCB No. 16-76
)	
v.)	
)	
WILL COUNTY, ILLINOIS, WILL COUNTY)	
BOARD, WASTE MANAGEMENT OF)	
ILLINOIS, INC.)	
)	
)	
Respondents.)	

CLOSING BRIEF OF ERDS

Since neither the County nor WMII, in their opening brief, addressed the arguments raised by ERDS, there is not very much to say or argue in this closing brief. ERDS stands on the arguments previously made, and the supporting authority, both legal and in the local hearing transcript, remains as it was.

A few points, however, need to be addressed. The County argues with regard to need that “this Criterion is met when the evidence shows that the facility is reasonably required by the waste needs of the service area. File v. DNL Landfill, 219 Ill. App. 3d 897 (5th Dist. 1991).” What is important here is that both the statute and case law interpreting the same refer to “waste needs,” not “SPECIAL waste needs.” Sheryl Smith’s conclusion of a disposal capacity shortfall is based on how much special waste other landfills in the service area have taken in the past, not on how much they are legally capable of taking in the future. There is no authority for this approach, nor logic behind it. To allow such an approach would be to allow an operator to conjure up a need when none actually exists. It is no different than a prospective operator saying he wants to develop a landfill to take only red bricks, and because no other landfills in an area

are currently receiving red bricks, even though they are legally allowed to do so, there is a disposal capacity shortfall. The other danger here is that the waste stream can change after siting and development by joint agreement of the the operator and the siting authority.

With regard to Criterion vi the County argues that Lynn Means identified the one traffic route that would minimize the impact on existing traffic. Actually, she identified the existing route, there is no evidence that she considered other possible routes, and most importantly, she did not describe the existing traffic or current impact. In fact, she intentionally backed existing site traffic out of her analysis, presumably to avoid having to admit that existing traffic is severely impacted by current site traffic, reducing the key intersections, such as Route 53 and Laraway Rd. to unacceptable levels of service. She described only two traffic conditions, both hypothetical, current non site related traffic and future total traffic with non guaranteed third party road and intersection improvements. This does not address the mandate of the criterion.

WMII notes that future site related traffic is expected to be about the same as current traffic. This only highlights the importance of knowing real current conditions and impacts. Both WMII and Ms. Means talk about truck trips based on a 10,000 TPD volume, and Ms. Means refers to her 15,000 TPD as conservative (Tr. 190). That statement on her part is odd considering the fact that on the day traffic counts were done the site volume was almost 17,000 tons (Tr. 209).

For the foregoing reasons, and for all the reasons set forth in its opening brief, ERDS respectfully prays that the decision of the Will County Board be reversed.

Respectfully submitted,

By: /s/ George Mueller
George Mueller, Attorney

Dated: August 31, 2016

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