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MAR 13 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AMERICAN BOTTOM CONSERVANCY, and)
)
 SIERRA CLUB,)
)
 Co-Petitioners,)
)
 v.) PCB 07-84
) (Pollution Control Facility
 CITY OF MADISON, ILLINOIS, and) Siting Appeal)
)
 WASTE MANAGEMENT OF ILLINOIS, INC.,)
)
 Respondents.)

To: Donald J. Moran
 Pedersen & Houpt
 161 North Clark Street
 Suite 3100
 Chicago, IL 60601-3224

Penni S. Livingston
 Livingston Law Firm
 5701 Perrin Road
 Fairview Heights, IL 62208

John T. Papa
 Callis, Papa, Hale, Szewczyk & Danzinger, PC
 1326 Niedringhaus Avenue
 Granite City, IL 62040

NOTICE OF FILING

Please take notice that on the 13th day of March, 2007, I have filed with the Office of the Clerk of the Pollution Control Board the original and nine copies of a petition for review of pollution control siting facility approval, a copy of which is herewith served upon you.



Bruce A. Morrison (Il. Reg. No. 6279301)
 Great Rivers Environmental Law Center
 705 Olive Street, Suite 614
 St. Louis, MO 63101-2208
 Phone: (314) 231-4181
 Fax: (314) 231-4184
 Attorneys for petitioners

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CERTIFICATE OF SERVICE

MAR 13 2007

The undersigned certifies that on the 12th day of March, ~~2007~~ ^{STATE OF ILLINOIS} ~~2007~~ ^{Illinois Pollution Control Board},
a complete copy of the foregoing document was served upon counsel for respondents by
enclosing the same envelopes and depositing said envelopes, with first class postage fully
prepaid, in a United States post office box, addressed to:

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APPEARANCE

I hereby file my appearance in this proceeding on behalf of Co-Petitioners American Bottom Conservancy and Sierra Club.



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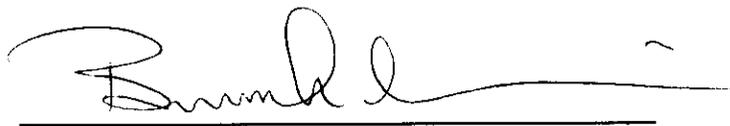
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PETITION FOR REVIEW OF POLLUTION CONTROL
FACILITY SITING APPROVAL

Co-Petitioners American Bottom Conservancy and Sierra Club, pursuant to § 40.1(b) of the Environmental Protection Act (the Act) (415 ILCS 5/40.1), petition the Board for a hearing to contest the approval by the City of Madison, Illinois, on February 7, 2007, of an application for siting approval for the North Milam Recycling and Disposal Facility ("Application").

Co-Petitioners

1. American Bottom Conservancy (ABC), an Illinois not-for-profit corporation, is a volunteer, grass-roots organization based in metropolitan East St. Louis, Illinois. ABC works to protect Illinois natural and cultural resources, with particular emphasis on wetlands and the American Bottom floodplain of the Mississippi River. A primary concern of ABC is the preservation of natural areas and the environment in and around Horseshoe Lake State Park and Cahokia Mounds World Heritage Site. ABC is also committed to the proper siting and operation of solid waste disposal facilities.

2. ABC is a membership organization. ABC members travel on roads, walk trails, observe nature, and fish in the vicinity of the proposed landfill and would be impacted by the noise and smells emanating from the landfill and the possible contamination by the landfill of Horseshoe Lake. Further, ABC has Native American members who would be negatively impacted by the construction of a landfill where Indian remains and mounds have been found—on land they consider sacred.

3. ABC and its members participated in the public hearing before the City of Madison. ABC brings this petition for review to redress its injuries and the injuries to its members.

4. Sierra Club is a nonprofit corporation incorporated under the laws of the State of California. Sierra Club is a membership organization, composed of more than 700,000 members nationally, and more than 26,000 members in the State of Illinois. From its founding in 1892, Sierra Club has been actively engaged in efforts to preserve the natural values of the Mississippi River and its adjoining floodplains. These interests of Sierra Club and its members will be adversely affected by the City of Madison's approval of the application.

5. Members of the Sierra Club Kaskaskia and Piasa Palisades groups participated in the public hearing before the City of Madison. Sierra Club files this petition for review on its own behalf and on behalf of its members.

Respondents

6. Respondent City of Madison, Illinois, approved the Application for siting approval for the North Milam Recycling and Disposal Facility.

7. Respondent Waste Management of Illinois, Inc., is the applicant.

Proceedings before the City of Madison

8. On September 22, 2006, Respondent Waste Management of Illinois, Inc. ("WMII" or "Applicant"), filed an application with the City of Madison for siting approval pursuant to §39.2 of the Act of a pollution control facility, specifically an

expansion of WMII's Milam Recycling & Disposal Facility located in Fairmont City, St. Clair County, to be called "North Milam," located in the City of Madison, Madison County, Illinois.

9. The proposed landfill site is within 2100 feet of the Cahokia Mounds National Historic Landmark boundaries. Cahokia Mounds is a UNESCO World Heritage Site as well as a state historic site. Cultural artifacts, Indian mounds and an ancient skull have been found on and around the site of the proposed landfill.

10. The proposed landfill is to be located on 18 acres of wetlands.

11. The area surrounding the proposed landfill includes Horseshoe Lake State Park and Lake, visited by 360,000 people annually and used for both recreational and subsistence fishing, walking and nature trails, and a campground. There is open space, farmland, wetlands and Eagle Park Marsh—listed on the Illinois Natural Areas Inventory.

12. A public hearing was held on the Application on December 21 and 22, 2006.

13. On February 6, 2007, the Aldermen of the City of Madison approved the Application. According to the Deputy City Clerk, the City's written decision is set forth in the minutes of the Madison City Council meeting of February 6, 2007, and that there is no other written decision or ordinance of the City concerning the Application. The minutes of the Madison City Council meeting of February 6, 2007, are attached to this petition as Ex. 1.

Count I - Fundamental Fairness

14. Co-petitioners incorporate by reference paragraphs 1 through 13 above.

15. The proceedings of the City of Madison, including the City's pre-hearing, hearing, and post-hearing procedures, and the City's decision-making process, as well as the action of the City taken on February 6, 2007, were defective, unlawful, and not fundamentally fair for reasons including those set forth below.

16. On June 13, 2006, the City of Madison passed Ordinance 1670 governing the procedures for a public hearing for siting a pollution control facility. The City did not make the ordinance available for inspection and copying online or at any public library but, instead, sought to charge the public an excessive amount to obtain a copy. The sums that the City sought to charge the public for access to the ordinance and for other documents is not in accordance with fundamental fairness or fair public process. Further, in light of the excessive sum the City sought to charge for a copy of Ordinance 1670, the City should have borne the burden of including Ordinance 1670 within the record.

17. Before the public hearing, the City gave to ABC and Sierra Club inaccurate information about the manner in which the City would conduct the public hearing. Further, before and during the hearing, the City repeatedly changed its rules governing the conduct of the proceedings and improperly excluded evidence offered by ABC and Sierra Club. These actions of the City negatively affected the manner in which co-petitioners examined witnesses at the hearing, and negatively affected the ability of ABC and Sierra Club to make a full record for review.

18. At the hearing petitioners sought to cross-examine Waste Management's expert on compatibility about the archeological findings, but were told archeology was not a part of the siting process. Further, Native Americans testified during the public hearing in opposition to the application. Further, letters from the Powell Archaeological Research Center and the Cahokia Archaeological Society were submitted to the City during the public comment period opposing the siting approval. Also submitted during the public comment period was a letter from the firm hired as archeological consultant by Waste Management, accompanied by a lengthy report. The day after the City Council voted to approve the Application, the City's Mayor wrote the two archeological organizations stating that the City reviewed the material provided by the consultant and that the report contradicted the contentions of the

archeological organizations. By submitting the report after the close of the public hearing, petitioners were unfairly denied the opportunity to examine the material and cross-examine the consultant producing the report, and to rebut the conclusions of the report.

19. At the hearing petitioners sought to examine Waste Management's consultant on the compatibility of the proposed facility and the wetlands at the site, but were told that wetlands was not part of siting. Yet, after the close of the public hearing, Waste Management's wetlands consultant submitted a letter and a lengthy report on wetlands during the public comment period. Petitioners were unfairly denied the opportunity to examine the material and cross-examine the consultant producing the report.

20. The City of Madison failed to respond, weigh, or otherwise acknowledge opposing views, comments and facts offered in opposition to the application.

21. By merely voting to approve the application and failing to put in writing the reasons for its vote, the City of Madison failed to create an adequate record of its decision. (Petitioners recognize that the action by the City of Madison does not fulfill the regulatory requirements for siting approval.)

Relief Requested

Wherefore, American Bottom Conservancy and Sierra Club respectfully request that the Illinois Pollution Control Board set this matter for hearing and discovery, that the City of Madison's approval of the application be reversed and the application denied, and for such other and further relief as the Board deems just and appropriate.

Count II - Failure to Meet Siting Criteria

22. Co-petitioners incorporate by reference paragraphs 1 through 21 above.

23. The City's approval of the application is against the manifest weight of the evidence for the reasons set out below.

24. The landfill is not necessary to accommodate the waste needs of the area it is intended to serve because landfill capacity in the Metro East increased 28 per cent from the previous year, providing enough capacity for the area for the next 19 years.

25. The facility is not located so that the public health, safety and welfare will be protected because:

- A. The landfill would be located in the American Bottom floodplain, adjacent to the Cahokia Canal, less than three miles from the Mississippi River;
- B. The landfill would be located on soils that have severe restrictions for a sanitary landfill;
- C. The site is in the New Madrid Fault Zone;
- D. The landfill would be located on fragile soils subject to liquefaction;
- E. The proposed site is within 2000 feet of Horseshoe Lake State Park and the lake itself, where there is both recreational and subsistence fishing, hunting, picnicking, camping and walking and nature trails;
- F. The base of the landfill would sit virtually on top of the water table;
- G. There is the potential for groundwater contamination that could migrate to Horseshoe Lake, the Cahokia Canal and the river; and
- H. Toxic and noxious gases emanating from the landfill could easily impact visitors to the state park, which sits immediately downwind of the proposed landfill.

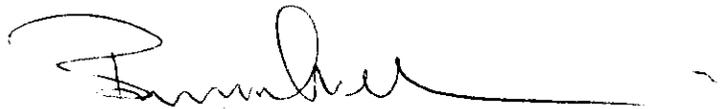
26. The facility is not located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property because the area surrounding the proposed landfill includes Horseshoe Lake State Park and Lake, visited by 360,000 people annually and used

for both recreational and subsistence fishing, walking and nature trails, and a campground. There is open space, farmland, wetlands and Eagle Park Marsh—listed on the Illinois Natural Areas Inventory. Further, the proposed site is just 2100 feet from the Cahokia Mounds National Historic Landmark boundaries, a National Historic Landmark and State Historic Site and an important American Indian Cultural center that has been designated by UNESCO as a World Heritage Site and is an important Illinois tourist attraction. Further, surveys conducted preliminary to the filing of the Application produced evidence of ancient human remains, pre-Columbian mounds and other features that are eligible for inclusion on the National Register of Historic Places.

27. The evidence in the record is insufficient to show that the proposed facility is outside of the floodplain.

Relief Requested

Wherefore, American Bottom Conservancy and Sierra Club respectfully request that the Illinois Pollution Control Board set this matter for hearing and discovery, that the City of Madison's approval of the application be reversed and the application denied, and for such other and further relief as the Board deems just and appropriate.



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City Council Meeting
Minutes
February 6, 2007

Prior to the City Council meeting, Donohoo, McCauley & Associates made a presentation of the 2005-2006 audit to Council members at 6:15 p.m.

The City Council meeting was called to order by Mayor Hamm. Roll call was made and present were Alderpersons Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway.

At this time those present recited the Pledge of Allegiance.

At this time a motion was made by Alderperson Armour, seconded by Alderman Treadway, to approve the minutes of the regular meeting held on January 23, 2007. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time a motion was made by Alderman Vrabec, seconded by Alderman Bridick, to dispense with the reading of the City Bills as each Council member have a copy and approve the same. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time a motion was made by Alderman Vrabec, seconded by Alderperson Bridick, to allow and have warrants drawn on the Treasury for payment of Claims in the amount of \$150,874.83. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time, it was moved by Alderperson Armour, seconded by Alderman Bridick, to approve the Comptroller's Report with correction as noted. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

It was moved by Alderman Bridick, seconded by Alderman Treadway, to move Agenda Section VIII. New Business, Item D, to this part of the meeting. Voice vote as follows: Yeas: Eight. Nays: None. Motion carried.

It was moved by Alderman Grzywacz, seconded, by Alderperson Armour, to approve the Waste Management Siting Application dated September 22, 2006. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time, Mayor Hamm acknowledged Waste Managements District Manager along with other staff who thanked the Council for approving the Siting Application.

Mike Foley informed the Council that everything is moving along well with work that has been scheduled.



It was moved by Alderperson Armour, seconded by Alderman Treadway, to accept reports of Department Officers. Voice vote as follows: Yeas: Eight. Nays: None. Motion carried.

It was moved by Alderman Vrabec, seconded by Alderman Hampsey, to approve the May 1, 2005 through April 30, 2006 audit as presented. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

It was moved by Alderman Hampsey, seconded by Alderman Bridick, to approve request from James Gardner to place 1530 2nd Street up for surplus property. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, and Treadway. Abstain: Gardner. Nays: None. Motion carried.

It was moved by Alderman Hampsey, seconded by Alderman Bridick, to approve request from Todd Wise to place 1817 Wayne Lanter up for surplus property. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, and Treadway. Abstain: Gardner. Nays: None. Motion carried.

Alderman Treadway informed the Council that he had met with a carpenter that is currently building a Hooter's on Lindbergh in St. Louis. The carpenter congratulated the City of Madison on the great conditions of their baseball fields.

It was moved by Alderman Vrabec, seconded by Alderman Hampsey, to approve "A Resolution Authorizing the Sale/Disposal of Certain Real Property" as Resolution No. 07-01. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, and Treadway. Abstain: Gardner. Nays: None. Motion carried.

It was moved by Alderman Bridick, seconded by Alderman Hampsey, to place Miscellaneous Business Item A on file. Voice vote as follows: Yeas: Eight. Nays: None. Motion carried.

At this time, Mayor Hamm reported that the sewer system for the golf course was complete, and Midwest Rack, in the same vicinity, is requesting connection to the sewer main. Mayor Hamm stated the estimated cost is \$108,000 and is recommending to the Council a 70/30 split; the City paying 70%, Midwest paying 30%, and is requesting approval to extend the offer. It was moved by Alderman Hampsey, seconded by Alderman Riskovsky, to allow Mayor Hamm to proceed with the recommendation. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

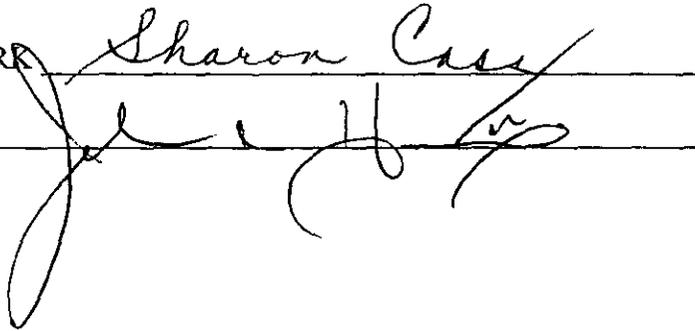
It was moved by Alderman Hampsey, seconded by Alderman Treadway, to approve the purchase of equipment and installation of camera system for the Canal Bridge at the cost of \$4,765.00 from Wisper Wireless Internet. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time, Mayor Hamm stated that the property behind Quik Trip on Skeen has been appraised at \$20,000, but the owner is asking \$36,000. Mayor Hamm requested approval to move forward with negotiations for the property. It was moved by Alderman Riskovsky, seconded by Alderman Grzywacz, to concur with Mayor Hamm's request to negotiate. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

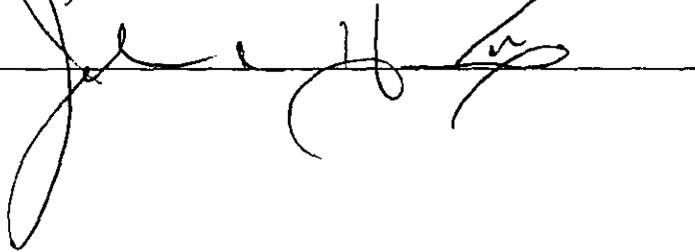
At this time, Mayor Hamm stated that the property behind Quik Trip on 6th Street is currently held in an estate, but the owner has indicated a willingness to open the estate. Beth Hamm indicated that all title work is clear. It was moved by Alderman Hampsey, seconded by Alderman Vrabec, to instruct Attorney Papa to look into opening the estate for the owner. Roll call vote as follows: Yeas: Armour, Bridick, Grzywacz, Riskovsky, Hampsey, Vrabec, Gardner, and Treadway. Nays: None. Motion carried.

At this time, there being no further business to come before this Council, a motion was made by Alderman Riskovsky, seconded by Alderman Bridick, to adjourn. Voice vote as follows: Yeas: Eight. Nays: None. Motion carried.

CITY CLERK

A handwritten signature in cursive script, appearing to read "Sharon Casey", written over a horizontal line.

MAYOR

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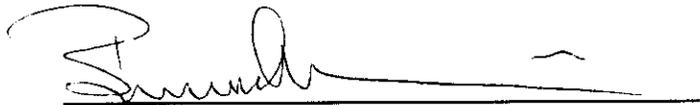
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