

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

FOX MORaine, LLC)	
)	
Petitioner,)	
)	
v.)	PCB 07- 146
)	
UNITED CITY OF YORKVILLE,)	
CITY COUNCIL)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 14th day of December, 2007, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Motion to Compel and for Sanctions** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
MUELLER ANDERSON, P.C.
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Fox Moraine, LLC v. United City of Yorkville
PCB No. 2007-146

SERVICE LIST

PCB 2007-146
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

PCB 2007-146
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
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PCB 2007-146
Leo P. Dombrowski
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PCB 2007-146
Michael Blazer
Jeep & Blazer
24 N. Hillside Avenue, Suite A
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PCB 2007-146
Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
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Thomas Matyas
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing** and **Fox Moraine, LLC's Motion to Compel and For Sanctions** to the Hearing Officer and all Counsel of Record listed on the attached Service list, by sending it via Electronic Mail on December 14, 2007, before 5:00 p.m.

/s/ Sharon Twardowski_____

- [x] Under penalties as provided by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth herein are true and correct

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, LLC)	
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Respondent.)	

MOTION TO COMPEL AND FOR SANCTIONS

NOW COMES Fox Moraine, LLC, the Petitioner herein, by one of its attorneys, George Mueller and for its motion states and alleges as follows:

1. That this motion is brought pursuant to §101.616 of the Board's General Rules.
2. On August 2, 2007, Petitioner, Fox Moraine, LLC, propounded Interrogatories and a Request to Produce to the United City of Yorkville, the Respondent herein. Copies of the same are attached hereto and made a part hereof as Exhibit A.
3. On August 23, 2007, the City of Yorkville filed a Motion for Protective Order objecting to the propounded discovery requests and seeking to limit discovery, alleging that Petitioner had waived its right to seek the specific discovery requested in its Interrogatories and Request to Produce. Said motion also alleged that discovery requests to the council members were unreasonably burdensome and unduly onerous.
4. On September 20, 2007, the Hearing Officer herein issued

an Order denying the motion and ordering the City of Yorkville to comply with the outstanding discovery requests.

5. On September 28, 2007, the City of Yorkville filed objections and responses to Petitioner's First Request to Produce and objections and answers to Petitioner's First Set of Interrogatories. Copies of the same are attached hereto and made a part hereof as Exhibit B.

6. With regard to the Request to Produce, the responses are deficient and incomplete for the following reasons:

A. Respondent objected to every single Request to Produce. Said objections had been waived by failure to include them in their original motion for protective order and to limit scope of discovery and said objections had been preempted to the extent that the Hearing Officer's order of September 20, 2007, found that the requests were not burdensome and onerous.

B. As to requests 1 through 6 and 13 through 16, the City indicated that, without waiving its objections, it would produce documents within its possession, "if any." No documents have been produced with respect to any of these requests nor has there been any statement, verified or unverified, by respondent that no responsive documents exist with respect to these requests.

C. With respect to requests 7 through 12, Respondent has not produced anything nor indicated that they would produce any

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documents without waiving their objections.

D. The response to the Request to Produce is signed by one of Respondent's attorneys, is unverified and is not accompanied by an affidavit of accurateness or completeness as required by Supreme Court Rules.

7. The responses and objections to the Petitioner's First Set of Interrogatories are insufficient and defective as follows:

A. Respondent objected to each and every Interrogatory propounded. Said objections were waived by failure to include them in Respondent's Motion for Protective Order and are disposed of by the Hearing Officer's Order of September 20, 2007.

B. Respondents failed entirely to answer Interrogatories 2 and 3. The answer to Interrogatory number 4 is not specific and does not address the subparts of the Interrogatory. The answer to Interrogatory number 5 is not specific and does not address the subparts. The answer to Interrogatory number 6 makes reference to documents allegedly produced in response to the Request to Produce, when in fact, no documents were produced.

7. The responses and answers of the City of Yorkville are so incomplete as to be no responses at all. In light of the Hearing Officer's Order of September 20, 2007, the City of Yorkville's so called responses and answers are clearly propounded in bad faith and the Hearing Officer

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ought to sanction the City in accordance therewith.

WHEREFORE, Fox Moraine, LLC prays for an order compelling the City of Yorkville to substantively and meaningfully respond to the Request to Produce and Interrogatories propounded, for sanctions against the City of Yorkville and for such other and further relief that this Hearing Officer deems equitable and just.

Respectfully submitted,

FOX MORaine, LLC

By: /s/George Mueller
One of its attorneys

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**FIRST SET OF INTERROGATORIES OF PETITIONER, FOX MORaine, LLC,
DIRECTED TO RESPONDENT, YORKVILLE CITY COUNCIL**

NOW COMES Petitioner, Fox Moraine, LLC, by and through its attorneys Charles F. Helsten and George Mueller, P.C., and hereby requests that Respondent, Yorkville City Council, (the "City Council") answer under oath, in accordance with 35 IAC 101.620, the following Interrogatories, within twenty-eight (28) days from the date upon which these Interrogatories were served:

DEFINITIONS

1. Identify.

a. When used with reference to an individual (or multiple individuals) shall require a statement of the individual's full name; present and/or last known position, employment, job title and/or business affiliation; business address and telephone number; present or last known residential address and telephone number; and the individual's relationship, if any, to or with the parties hereto.

b. When used with reference to a business or corporation (or multiple businesses or corporations) shall mean to state the business's or corporation's legal name, the names under which it does business, its form (proprietorship, corporation,

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EXHIBIT A

partnership, association or business trust, etc.), the date and place of its inception and/or incorporation, identification of its principal proprietors, partners or officers, its present address, its principal place of business and its relationship, if any, to or with the parties hereto.

c. When used with reference to documents shall require a statement of the date thereof, the type of document, the author or speaker, and if different, the signer or signers, the addressee, the substance thereof, their present or last known location or custodian, and all other means of identifying them with sufficient particularity to satisfy the requirements for their identification in a request for their production pursuant to the possession or subject to control of the City Council, state the disposition that was made of it, the reason for such disposition, and the date thereof.

d. When used with reference to any communication, meeting, act, occurrence, statement or conduct (hereinafter collectively "act") requires you to:

- (i) describe the substance of the event or events constituting such act, and state the date when such act occurred;
- (ii) identify each and every person participating in such act;
- (iii) identify all other persons present when such act occurred;
- (iv) state whether any minutes, notes, memoranda, accounts, statements, agreements, or documents relating to the act was made;
- (v) state whether such record now exists; and
- (vi) identify the person presently having possession, custody or control of such record.

2. Relating To. "Relating to" as used herein with reference to a subject shall mean both of the following:

a. Containing, comprising, consisting of, constituting, composed of, stating, setting forth or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject; and

b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

3. Document. "Document" shall mean all documents, objects and tangible things contemplated by the Illinois Code or the Illinois Administrative Code, including every original (and any copy of any original and any copy which differs in any way from any original) of every writing of every kind or description, whether handwritten, typed, drawn, sketched, or printed, including, without limitation, computer-generated or maintained data or reports, books, records, papers, pamphlets, brochures, circulars, plans, correspondence, emails, communications, telegrams, memoranda, notes, logs, notebooks, worksheets, reports, lists, analysis, appointment books, diaries, telephone bills and toll call records, expense reports, commission statements, confirmation statements, checkbooks, cancelled checks, receipts, contracts, agreements, instruments, assignments, applications, offers, acceptances, written memorials of oral communications, photographs, photographic slides or negative films, digital images, digital moving images, and film strips to which the City Council now has or has had access to in the past.

4. Communication. "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents and records of communication, the identity of person(s) to whom and by whom it was made (see "1" above), the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

5. All and Any. As used herein "all" refers to any and all, and the term "any" likewise refers to any and all.

6. And / Or. "And" as well as "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Interrogatory any documents, acts or communications which might otherwise be construed to be outside its scope.

7. Application. "Application" shall mean the Application of Petitioner Fox Moraine, LLC to the Yorkville City Council for site location approval of a new solid waste landfill located in Yorkville, Illinois.

8. Any and all capitalized terms not defined herein should be ascribed the meanings given them in the Petition for Review.

INSTRUCTIONS

1. Any word written in the singular shall be construed as plural and any word written in the plural shall be construed as singular when necessary to facilitate complete answers.

2. All information requested is from September 1, 2006, to the date of compliance with this request, unless otherwise specifically indicated. If the answer is not uniformly applied to that entire period, each change within the period is to be indicated with the date of such change.

3. Your answer to each interrogatory should include all knowledge within your custody, possession or control. Where facts are set forth in your answers or portions thereof are supplied upon information and belief rather than actual knowledge, so state and specifically describe or identify the source or sources of such information and belief. If any estimate can reasonably be made in place of the unknown information, set forth your best estimate, clearly designated as such, in place of unknown information, and describe the basis upon which the estimate is made. If you cannot answer the interrogatory in full after exercising due diligence to secure the information requested, so state and answer to the fullest extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portion.

4. To the extent any interrogatory is objected to, set forth all reasons therefore. If you claim privilege as a ground for not answering any interrogatory in whole or in part, describe the factual basis for your claim of privilege, including all relevant dates and persons involved, in sufficient detail so as to permit the Court to adjudicate the validity of the claim. If you object in part to any interrogatory, answer the remainder completely.

5. Concerning any and all documents which you are asked to identify in these Interrogatories that you do not identify on the grounds of any type of privilege, or for any other reason, indicate and describe each document withheld by date, author(s), addressee(s), recipient(s) or distribute(s), title, type of document (e.g., memorandum, letter, report), location of its creation, present location of the document, identity of any person to whom it has already been revealed, identity of any person or entity who possesses or has custody of it, identity of any person or entity who possesses or has previously had custody of it, total number of copies created, the basis upon which it is being withheld, and general subject matter.

6. Where an interrogatory calls for the identification of a document, a true and correct copy of such document may be attached to the response in lieu of describing such documents, provided, however, where an interrogatory answer requires specification of particular words, paragraphs, pages, etc., the same be clearly identified. If in response to any interrogatory you exercise your option under the Illinois Supreme Court Rules to produce business records in lieu of a written response, identify and segregate the specific documents from which the answers to the interrogatory may be derived or ascertained with sufficient specificity to permit the answers to be identified in a document request.

7. To the extent required by the Illinois Supreme Court Rules and/or the Illinois Administrative Code or regulations, you are hereby requested and required to supplement your answers if you obtain or become aware of further responsive information after you serve your answers.

INTERROGATORIES

1. For the period between September 1, 2006, and May 25, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member or made to any City Council Member relating to the Application, excepting therefrom, communications in the form of official filings by Fox Moraine, LLC, other registered participants, filed public comments and filings by the City of Yorkville staff or hearing officer, and with respect to each such communication, please identify:

- A. The date said communication took place;
- B. The person or group initiating and/or authoring the communication;
- C. The person or group receiving the communication;
- D. The substance and content of the communication;
- E. The identity of all others present when such communication was made;
- F. The identity of all others present when such communication was received;
- G. The manner of the delivery of the communication; and
- H. Whether any record or memorandum of said communication exists.

ANSWER:

2. For the period between September 1, 2006, and May 25, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member or made to any City Council Member relating to the annexation of the subject property, approval of the Host Agreement or vacation of a portion of Sleepy Hollow Road, excepting therefrom, communications in the form of official filings by Fox Moraine, LLC, and with respect to each such communication, please identify:

- A. The date said communication took place;
- B. The person or group initiating and/or authoring the communication;
- C. The person or group receiving the communication;
- D. The substance and content of the communication;
- E. The identity of all others present when such communication was made;
- F. The identity of all others present when such communication was received;
- G. The manner of the delivery of the communication; and
- H. Whether any record or memorandum of said communication exists.

ANSWER:

3. Between September 1, 2006, and May 24, 2007, please identify any and all meetings between any member of the City Council and any other member of the City Council at any time or place where the Application of Fox Moraine, LLC was considered or discussed, excepting therefrom official meetings of the City Council or its committees and, with respect to each such meeting, identify:

- A. The date and time upon which said meeting took place;
- B. The location at which said meeting took place; and
- C. The names of all individuals who were present at said meeting.

ANSWER:

4. Between September 1, 2006, and May 25, 2007, state whether or not any member of the City Council gave or transferred anything of value or received anything of value from the Friends of Greater Yorkville, Kendall Land and Cattle Co., Waste Management of Illinois, Inc., and/or any of their members or representatives. If so, please identify:

- A. The name of the person or organization making the gift or transfer;
- B. The name of the person or organization receiving the gift or transfer;
- C. The date upon which the gift or transfer was made; and
- D. The amount of the gift or transfer.

ANSWER:

5. Please identify and describe each City Council Member's association, if any, with Friends of Greater Yorkville. "Association" is defined as being a member, having made a contribution, payment, gift or transfer at any time to the organization or having attended a meeting of the organization. If so, please identify:

- A. The name of the City Council Member having said association;
- B. The inclusive dates of the association; and
- C. The nature of the association.

ANSWER:

6. Please identify any document or other writing relating to the Application, other than newspaper articles, editorials or letters to the editor, which document or writing is not part of the record filed by the City Council with the Pollution Control Board, in the possession or control of any City Council Member. As to each such document or other writing, please identify:

- A. The City Council Member having such document or writing;
- B. The nature of the document or writing;
- C. The date upon which said City Council Member came into possession of said document or writing.

ANSWER:


7. Please identify all communications written, oral or electronic between any member of the City Council and Jeff Jeep or Michael Blazer between September 1, 2006 and May 25, 2007 and for each such conversation state the date, the parties to the communication, the form or nature of the communication and the substance thereof.

ANSWER:

8. Please identify all sources of materials outside the official public records consulted by, used or considered by any City Council member in evaluating, weighing or deliberating on the Application or any of the evidence submitted regarding the same.

ANSWER:

Respectfully submitted,
Fox Moraine, LLC, Petitioner



CHARLES F. HELSTON and
GEORGE MUELLER, Its Attorneys

STATE OF ILLINOIS)
)
COUNTY OF _____) SS

AFFIDAVIT OF SERVICE

The undersigned being first duly sworn on oath, states that a copy of the foregoing FIRST SET OF INTERROGATORIES OF PETITIONER, FOX MORaine, LLC DIRECTED TO RESPONDENT, YORKVILLE CITY COUNCIL was served upon the following persons by enclosing copies of same in separate envelopes, addressed as set forth below, and depositing said envelopes in a U.S. Postal Service mailbox in Ottawa, Illinois, on the 2nd day of August, 2007, before 5:00 p.m., with all fees thereon fully prepaid.

PCB 2007-146
Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford, IL 61105-1389

PCB 2007-146
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street,
Suite 11-500
Chicago, IL 60601

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Anthony G. Hopp
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PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

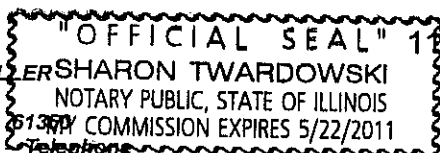
PCB 2007-146
Michael Blazer
Jeep & Blazer
24 N. Hillside Avenue, Suite A
Hillside, Illinois 60162

Charles Helsten

George Mueller

Subscribed and sworn to before me this 2nd day of August, 2007.

Sharon Twardowski
Notary Public



GEORGE MUELLER SHARON TWARDOWSKI
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COPY

**FIRST SET OF REQUESTS TO PRODUCE OF PETITIONER, FOX MORAINE, LLC
DIRECTED TO RESPONDENT, YORKVILLE CITY COUNCIL**

NOW COMES FOX MORAINE, LLC ("Petitioner") by its attorneys, Charles F. Helsten and George Mueller, and directs the YORKVILLE CITY COUNCIL("Respondent"), to produce at the office of George Mueller, 609 Etna Road, Ottawa, Illinois, within twenty-eight (28) days of service of this request, or at such other time and place as may be agreed upon by the attorneys for the parties pursuant to Illinois Administrative Code Title 35, Section 101.616, for inspection, copying, reproduction and photographing the following documents, objects or tangible things, to wit:

DEFINITIONS

1. Document. "Document" shall mean all documents, objects and tangible things, including every original (and any copy of any original and any copy which differs in any way from any original) of every writing of every kind or description, whether handwritten, typed, drawn, sketched, or printed, including, without limitation, computer-generated or maintained data or reports, books, records, papers, pamphlets, brochures, circulars, plans, correspondence, emails, communications, telegrams, memoranda,

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telephone bills and toll call records, expense reports, commission statements, confirmation statements, checkbooks, cancelled checks, receipts, contracts, agreements, instruments, assignments, applications, offers, acceptances, written memorials of oral communications, photographs, photographic slides or negative films, digital images, digital moving images and film strips to which Respondent now has or has had access to in the past.

2. Communication. "Communication" includes all discussions, conversations, interviews, meetings, negotiations, emails, instant messaging, cablegrams, mailgrams, telegrams, telexes, cables, or other forms of written or verbal intercourse, however transmitted, including reports, notes, memoranda, lists, agendas, and other documents, the identity of person(s) to whom and by whom it was made, the date it was made, the circumstances under which it was made, including but not limited to the location where it was made, the date it was made, the means by which it was made, and the form in which it was made.

3. Relate To or Relating To. "Relating to" or "relating to" as used herein with reference to a subject shall mean both of the following:

a. Containing, comprising, consisting of, constituting, composed of, stating, setting forth or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject; and

b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

4. All and Any. As used herein "all" refers to any and all, and the term "any" likewise refers to any and all.

5. And / Or. "And" as well as "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope.

6. Any and all capitalized terms not defined herein should be ascribed the meanings given them in the Petition for Review filed with the Pollution Control Board on June 27, 2007, initiating this matter.

INSTRUCTIONS

1. Any word written in the singular shall be construed as plural and any word written in the plural shall be construed as singular when necessary to facilitate complete answers.

2. All information requested is from September 1, 2006, to the date of compliance with this request, unless otherwise specifically indicated. If the answer is not uniformly applied to that entire period, each change within the period is to be indicated with the date of such change.

3. If any document requested is withheld on the ground of privilege, provide a log of all such documents, including: (a) a description of the subject of each such document; (b) all persons who have knowledge of each such document, or any having knowledge regarding each such document, including without limitation the author of any document withheld; (c) the date and circumstance of any communication of such document, including without limitation the identification of the author(s), any addressee(s), indicated or blind carbon copy recipient(s), or other recipient(s); and (d) all grounds relied upon for not providing each such document.

4. If any document described by this request has been lost, destroyed, discarded or otherwise disposed of, that document is to be identified as completely as possible.

5. If any information is redacted from a document produced pursuant to this request, that information is to be identified and described generally, and all grounds relied upon for not providing such information are to be fully set forth.

6. If any document described by this request no longer exists, or is no longer within your possession, custody or control, identify such document(s).

7. Identify in writing each paragraph of this request for which no responsive documents are produced.

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8. If, subsequent to your initial response, you come into possession of any document(s) that is (are) responsive to any of the following requests, you are requested to supplement the response accordingly.

9. Documents produced in response to these requests must be organized in categories that correspond to the responsive request.

DOCUMENTS TO BE PRODUCED

1. All documents in the possession or control of Respondent referring to the Application that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

2. Any document received or created by any member of the Yorkville City Council referring to the Application that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

3. All documents in the possession or control of Respondent referring to Fox Moraine, LLC that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

4. Any document received or created by any member of the Yorkville City Council referring to Fox Moraine, LLC that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

5. All documents in the possession or control of Respondent received from any member or representative of Friends of Greater Yorkville or any of it's members or representatives, the law firm of Jeep and Blazer or any of its principals or employees,

Kendall Land & Cattle Company or any of its principals or representatives that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

6. Any document received by any member of the Yorkville City Council from any member or representative of the Friends of Greater Yorkville or any of its members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

7. All documents in the possession or control of Respondent portraying the proposed Fox Moraine landfill or any property located within one (1) mile of the proposed Fox Moraine landfill that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

8. Any document received or created by any member of the Yorkville City Council portraying the proposed Fox Moraine landfill or any property located within one (1) mile of the proposed Fox Moraine landfill that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

9. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda,

correspondence and transcripts, considered by the Yorkville City Council regarding the Application.

10. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, available to the Yorkville City Council in its consideration of the Application.

11. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, received from any source by the Yorkville City Council regarding Fox Moraine's request for annexation.

12. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, received from any source by the Yorkville City Council regarding Fox Moraine's request to vacate a portion of Sleepy Hollow Road.

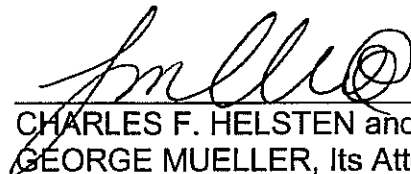
13. All documents in the possession or control of Respondent reflecting receipt of any funds, contribution, services or anything else of monetary value by any member of the Yorkville City Council from the Friends of Greater Yorkville or any of its members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

14. Any document received or created by any member of the Yorkville City Council relating to any election or reelection campaign and mentioning, received from or sent to the Friends of Greater Yorkville or any of it's members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

15. Any document received or created by any member of the Yorkville City Council reflecting membership of any member of the Yorkville City Council in the Friends of Greater Yorkville that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

16. All documents in the possession or control of Respondent reflecting any opinion or position on the Siting Application of any member of the Yorkville City Council that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

Respectfully submitted,
FOX MORAINÉ, LLC, Petitioner



CHARLES F. HELSTEN and
GEORGE MUELLER, Its Attorneys

906-0824

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7

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STATE OF ILLINOIS)
)
COUNTY OF _____) SS

AFFIDAVIT OF SERVICE

The undersigned being first duly sworn on oath, states that a copy of the foregoing FIRST SET OF REQUESTS TO PRODUCE OF PETITIONER, FOX MORAINE, LLC DIRECTED TO RESPONDENT, YORKVILLE CITY COUNCIL was served upon the following persons by enclosing copies of same in separate envelopes, addressed as set forth below, and depositing said envelopes in a U.S. Postal Service mailbox in Ottawa, Illinois, on the 2nd day of August, 2007, before 5:00 p.m., with all fees thereon fully prepaid.

PCB 2007-146
Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford, IL 61105-1389

PCB 2007-146
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street,
Suite 11-500
Chicago, IL 60601

PCB 2007-146
Leo P. Dombrowski
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Anthony G. Hopp
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
Michael Blazer
Jeep & Blazer
24 N. Hillside Avenue, Suite A
Hillside, IL 60162

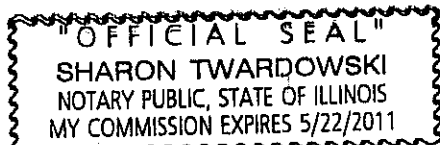
Subscribed and sworn to before me this _____ day of August, 2007.

Sharon Twardowski

Notary Public

Charles Helsten

George Mueller



~~GEORGE MUELLER~~
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORAINÉ, LLC)	
)	
Petitioner,)	
)	
v.)	PCB 07-146
)	
UNITED CITY OF YORKVILLE,)	
CITY COUNCIL,)	
)	
Respondent.)	

RESPONDENT, YORKVILLE CITY COUNCIL'S OBJECTIONS AND ANSWERS TO PETITIONER'S FIRST SET OF INTERROGATORIES

Respondent, UNITED CITY OF YORKVILLE, CITY COUNCIL ("Yorkville"), by and through its attorneys, and pursuant to the Rules of the Illinois Pollution Control Board, hereby responds to Petitioner's First Set of Interrogatories, as follows:

GENERAL OBJECTIONS

1. Yorkville objects to Petitioner's First Set of Interrogatories to the extent that they seek information protected from discovery by the attorney-client privilege, the attorney work product privilege, or any other privilege. Yorkville declines to respond to Petitioner's Requests to the extent that they seek such protected information.

2. Yorkville objects to Petitioner's First Set of Interrogatories to the extent that they seek information which is in the custody and/or control of persons other than Yorkville, including but not limited to Yorkville's former council members, employees, agents, consultants, attorneys, contractors, or other persons or entities.

3. Yorkville does not and has not assumed any improper, unproven or hypothetical facts set forth, implied or alluded to in Petitioner's First Set of Interrogatories or accepted those allegations of Petitioner's claims or argumentative terminology or characterizations which may be similarly set forth, implied or alluded to in those Interrogatories.

4. Yorkville objects to Petitioner's Definitions and Instructions to the extent that they purport to place upon Yorkville obligations not contained within the Rules of the Illinois Pollution Control Board or the Illinois Rules of Civil Procedure. Yorkville declines to apply Petitioner's Definitions and Instructions to the extent that they purport to impose such expanded obligations.

5. Yorkville objects to Petitioner's First Set of Interrogatories to the extent that they seek information regarding communications of current Council Members who were not Council Members during the entire period for which information is sought. Prior to election and swearing in as a Council Member, such persons were citizens of the United City of Yorkville and therefore had no obligations regarding *ex parte* communications and are not otherwise subject to these Interrogatories. The time period regarding these Council Members should begin on the date they were sworn into office.

INTERROGATORIES

1 For the period between September 1, 2006, and May 25, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member or made to any City Council Member relating to the Application, excepting therefrom, communications in the form of official filings by Fox Moraine, LLC, other registered participants, filed public comments and filings by the City of Yorkville staff or hearing officer, and with respect to each such communication, please identify:

- A. The date said communication took place;
- B. The person or group initiating and/or authoring the communication;
- C. The person or group receiving the communication;
- D. The substance and content of the communication;
- E. The identity of all others present when such communication was made;
- F. The identity of all others present when such communication was received;
- G. The manner of the delivery of the communication; and
- H. Whether any record or memorandum of said communication exists.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague. Yorkville further objects to this

Interrogatory because the first three months of the specified time period of September 1, 2006 to May 25, 2007 predate the filing of the Application and are therefore irrelevant to an interrogatory seeking the identification of communications "relating to the Application." Council Members could not have had communications regarding the Application before the Application was filed. Subject to and without waiver of the foregoing, Yorkville states that the members of the Yorkville City Council made or received or have some recollection of making or receiving communications relating to the Application as noted below.

Generally, when campaigning or appearing prior to the April 17, 2007 Yorkville elections, candidates and Council Members were asked by citizens of the City of Yorkville as to the candidates' and Members' views on the Application. The candidates and Council Members informed the public that they could and would not speak or answer questions about the Application. Prior to the elections, some candidates or Council Members were asked by the press about the Application. Once the elections had been held, Council Members and Council Members-elect continued to inform the public that they could and would not speak or answer questions about the Application. Some candidates and Council Members also passed out cards to citizens before and after the elections stating that they could not talk about the Application.

Joseph Besco received a phone call from a citizen who was against the landfill.

Valerie Burd received emails regarding the Application and responded that she could not discuss the Application.

Gary Golinski received two emails regarding the Application. He responded to one.

Jason Leslie received approximately five to seven emails and responded that he could not discuss the Application, but would consider all the evidence fairly.

Marty Munns received two e-mails regarding the Application.

Rose Spears received and deleted emails regarding the Application. Don Hamman spoke to her during a break at one of the public hearing sessions regarding the Application and asked her if she "would like to go for a ride" and view property with exclusive homes that surrounded a landfill that Mr. Hamman represented he owned or operated. She informed Mr. Hamman that this would not be legal and refused his invitation. Mr. Hamman responded, "We would not discuss the landfill, so it would be okay." Again, Rose Spears refused his invitation stating she did not agree with him.

Robyn Sutcliffe posted materials regarding the Application to a web site in or about January 2007.

Prior to December 20, 2006, Wally Werderich participated on an internet message board regarding the Application. He received and deleted emails regarding the Application. At various times, citizens spoke to him regarding the Application. At a public hearing session regarding the Application, Don Hamman asked Mr. Werderich if he could be fair in evaluating the evidence regarding the Application. Mr. Werderich replied that he could and would be fair.

Further answering, Yorkville states that, pursuant to Illinois Supreme Court Rule 213(e), it will produce responsive documents.

Finally, although outside the time period of this Interrogatory, and without waiver of its general and specific objections to this Interrogatory, Yorkville notes that in or around August 2006, then-current Council Members were contacted by Charlie Murphy, a representative of Don Hamman. Mr. Murphy met with Members in groups of two and told them that Mr. Hamman would be filing an application for the siting of a landfill. He also told at least some of them they should vote in favor of the proposed landfill. Following these meetings, Mr. Murphy telephoned members at their homes regarding the proposed landfill.

2. For the period between September 1, 2006, and May 25, 2007, please identify all communications in verbal, written or electronic form made by any City Council Member or made to any City Council Member relating to the annexation of the subject property, approval of the Host Agreement or vacation of a portion of Sleepy Hollow Road, excepting therefrom, communications in the form of official filings by Fox Moraine, LLC, and with respect to each such communication, please identify:

- A. The date said communication took place;
- B. The person or group initiating and/or authoring the communication;
- C. The person or group receiving the communication;
- D. The substance and content of the communication;
- E. The identity of all others present when such communication was made;
- F. The identity of all others present when such communication was received;
- G. The manner of the delivery of the communication; and
- H. Whether any record or memorandum of said communication exists.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague, and is beyond the scope of this siting appeal. This Interrogatory is not limited to information that is relevant to this appeal or is reasonably calculated to lead to the discovery of admissible evidence.

3. Between September 1, 2006, and May 24, 2007, please identify any and all meetings between any member of the City Council and any other member of the City Council at any time or place where the Application of Fox Moraine, LLC was considered or discussed, excepting therefrom official meetings of the City Council or its committees and, with respect to each such meeting, identify:

- A. The date and time upon which said meeting took place;
- B. The location of which said meeting took place; and
- C. The names of all individuals who were present at said meeting.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because a communication between a member of the City Council and another member of the City Council is not and can not be an *ex parte* communication. This Interrogatory therefore is overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Yorkville further objects to the extent this Interrogatory

seeks information protected from discovery by legislative or deliberative privilege. Additionally, allowing Fox Moraine to ask about communications between Council Members would lead to the chilling of discussion between elected officials who are charged with evaluating and deciding an application for the siting of a local landfill. (*See Waste Mngt. v. County Bd. of Kane County*, Hearing Officer Order, Mar. 12, 2003.) Yorkville also objects to this Interrogatory because the first three months of the specified time period of September 1, 2006 to May 24, 2007 predate the filing of the Application and are therefore irrelevant to an interrogatory seeking the identification of meetings "where the Application of Fox Moraine, LLC was considered or discussed." Council Members could not have had meetings regarding the Application before the Application was filed.

4. Between September 1, 2006, and May 25, 2007, state whether or not any member of the City Council gave or transferred anything of value or received anything of value from the Friends of Greater Yorkville, Kendall Land and Cattle Co., Waste Management of Illinois, Inc., and/or any of their members or representatives. If so, please identify:

- A. The name of the person or organization making the gift or transfer;
- B. The name of the person or organization receiving the gift or transfer;
- C. The date upon which the gift or transfer was made; and
- D. The amount of the gift or transfer.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague. Yorkville further objects because the terms "anything of value," "gift," and "transfer" are not defined and are susceptible to multiple interpretations. Subject to and without waiver of the foregoing, Yorkville states that Valerie Burd, Joe Plocher, and Wally Werderich received campaign contributions from members of Friends of Greater Yorkville.

5. Please identify and describe each City Council Member's association, if any, with Friends of Greater Yorkville. "Association" is defined as being a member, having made a

contribution, payment, gift or transfer at any time to the organization or having attended a meeting of the organization. If so, please identify:

- A. The name of the City Council Member having said association;
- B. The inclusive dates of the association; and
- C. The nature of the association.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague. Yorkville further objects because the terms "contribution," "gift," "transfer," and "meeting" are not defined and are susceptible to multiple interpretations. Subject to and without waiver of the foregoing, Yorkville states that Wally Werderich was the Secretary of Friends of Greater Yorkville from some time in October 2006 until some time in December 2006.

6. Please identify any document or other writing relating to the Application, other than newspaper articles, editorials or letters to the editor, which document or writing is not part of the record filed by the City Council with the Pollution Control Board, in the possession or control of any City Council Member. As to each such document or other writing, please identify:

- A. The City Council Member having such document or writing;
- B. The nature of the document or writing;
- C. The date upon which said City Council Member came into possession of said document or writing.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, vague, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Yorkville further objects to the extent this Interrogatory seeks information protected from discovery by legislative or deliberative privilege. Subject to and without waiver of the foregoing, and pursuant to Illinois Supreme Court Rule 213(e), see the documents produced in response to Petitioner's First Set of Requests to Produce.

7. Please identify all communications written, oral or electronic between any member of the City Council and Jeff Jeep or Michael Blazer between September 1, 2006 and

May 25, 2007 and for each such conversation state the date, the parties to the communication, the form or nature of the communication and the substance thereof.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague. Yorkville further objects to this Interrogatory because it is unlimited as to subject matter. Yorkville assumes that this Interrogatory is directed to communications relating to the Application or proposed landfill and will answer accordingly. Subject to and without waiver of the foregoing, Yorkville states that copies of a memorandum entitled "Outline of Illinois Site Location Approval Process" prepared by the firm of Jeep and Blazer were provided to or made available to members of the City Council in or about October 2006. The memorandum is available at <http://www.co.kendall.il.us/sitingprocessoutline.pdf>.


Additionally, Michael Blazer, as a representative of Kendall County, spoke at meetings of the Yorkville City Council or at meetings where Yorkville Council Members were present. First, at a meeting in or about September 2006, Mr. Blazer stated that Kendall County would oppose the siting of a landfill in Yorkville. Second, at a meeting in or about November 2006, Mr. Blazer spoke regarding landfill host agreements. Third, at a meeting in or about December 2006, Mr. Blazer objected to the appointment of Glenn Sechen as hearing officer to preside over the public hearing process regarding the Application.

Further, prior to the filing of the Application, Rose Spears and Wally Werderich spoke to Michael Blazer regarding landfill host agreements.

8. Please identify all sources of materials outside the official public records consulted by, used or considered by any City Council member in evaluating, weighing or deliberating on the Application or any of the evidence submitted regarding the same.

ANSWER: In addition to its General Objections, Yorkville objects to this Interrogatory because it is overly broad, unduly burdensome, and vague. Yorkville further objects to the extent this Interrogatory seeks information protected from discovery by legislative or deliberative privilege. Council Members knew that they were to rely only on the information of record in the landfill siting process and that their decisions regarding the Application were to be based solely on such information. Council Members did not prejudge the Application and acted fairly to all parties involved throughout the proceedings. Subject to and without waiver of the foregoing: none.

**UNITED CITY OF YORKVILLE,
CITY COUNCIL**

By: 
One of Its Attorneys

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Thomas I. Matyas
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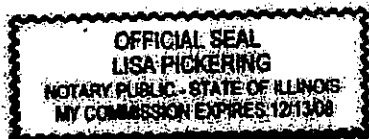
VERIFICATION

I, Valerie Burd, state that I am the Mayor of the United City of Yorkville. I hereby verify that I have read the foregoing Yorkville City Council's Objections and Answers to Fox Moraine's First Set of Interrogatories and know the contents thereof; that the matters set out therein are not all within my personal knowledge; that I am informed that there is no agent, employee or Council Member of the City having personal knowledge of all such matters; that said Objections and Answers were prepared with the assistance and advice of counsel and the input of City Council Members; that the Objections and Answers set forth therein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these Objections and Responses; that consequently, Yorkville reserves the right to make any changes in the Objections and Responses if it appears at any time that omissions or errors have been made therein or that more accurate information is available; and that, subject to the limitations set forth herein, the said Objections and Responses are true to the best of my knowledge, information and belief.

Valerie Burd

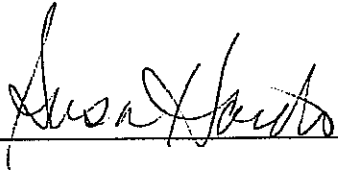
SUBSCRIBED AND SWORN TO
before me this 28 day of
September, 2007.

Lisa Pickering
Notary Public



CERTIFICATE OF SERVICE

I, Susan Hardt, a non-attorney, certify that I served a copy of the foregoing **Respondent, Yorkville City Council's Objections and Answers to Petitioner's First Set of Interrogatories**, on all Counsel of Record and the Hearing Officer, listed on the attached Service list, via e-mail and by sending them via First Class Mail on September 28, 2007, before 5:00 p.m.



[x] Under penalties as provided by law pursuant to ILL. REV. STAT. CHAP. 110 – SEC 1-109, I certify that the statements set forth herein are true and correct.

Fox Moraine, LLC v. United City of Yorkville, City Council
PCB No. 07-146

SERVICE LIST

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, LLC,)
)
 Petitioner,)
)
 v.) PCB 07-146
)
 UNITED CITY OF YORKVILLE,)
 CITY COUNCIL,)
)
 Respondent.)

RESPONDENT, YORKVILLE CITY COUNCIL'S OBJECTIONS AND RESPONSES TO PETITIONER'S FIRST SET OF REQUESTS TO PRODUCE

Respondent, UNITED CITY OF YORKVILLE, CITY COUNCIL ("Yorkville"), by and through its attorneys, and pursuant to the Rules of the Illinois Pollution Control Board, hereby responds to Petitioner's First Request for Production of Documents, as follows:

GENERAL OBJECTIONS

1. Yorkville objects to Petitioner's First Set of Requests to Produce to the extent that they seek information protected from discovery by the attorney-client privilege, the attorney work product privilege, or any other privilege. Yorkville declines to respond to Petitioner's Requests to the extent that they seek such protected information.

2. Yorkville objects to Petitioner's First Set of Requests to Produce to the extent that they seek information which is in the custody and/or control of persons other than Yorkville, including but not limited to Yorkville's former employees, agents, consultants, attorneys, contractors, or other persons or entities.

3. Yorkville does not and has not assumed any improper, unproven or hypothetical facts set forth, implied or alluded to in Petitioner's First Set of Requests to Produce or accepted those allegations of Petitioner's claims or argumentative terminology or characterizations which may be similarly set forth, implied or alluded to in those Requests.

4. Yorkville objects to Petitioner's Definitions and Instructions to the extent that they purport to place upon Yorkville obligations not contained within the Rules of the Illinois Pollution Control Board or the Illinois Rules of Civil Procedure. Yorkville declines to apply Petitioner's Definitions and Instructions to the extent that they purport to impose such expanded obligations.

5. Yorkville objects to Petitioner's use of the terms "Respondent" and "Yorkville City Council" because they require Yorkville to guess what Petitioner means. Petitioner apparently uses these terms interchangeably, and Yorkville interprets them to mean the City Council of the United City of Yorkville.

6. Yorkville objects to Petitioner's First Set of Requests to Produce to the extent that they seek information regarding documents of current Council Members who were not Council Members during the entire period for which information is sought. Prior to election and swearing in as a Council Member, such persons were citizens of the United City of Yorkville and therefore had no obligations regarding *ex parte* communications and are not otherwise subject to these Requests. The time period regarding these Council Members should begin on the date they were sworn into office.

DOCUMENT REQUESTS

1. All documents in the possession or control of Respondent referring to the Application that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

2. Any document received or created by any member of the Yorkville City Council referring to the Application that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

3. All documents in the possession or control of Respondent referring to Fox Moraine, LLC that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

4. Any document received or created by any member of the Yorkville City Council referring to Fox Moraine, LLC that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

5. All documents in the possession or control of Respondent received from any member or representative of Friends of Greater Yorkville or any of its [sic] members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is vague and does not relate to the Application or any aspect of this siting appeal.

Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

6. Any document received by any member of the Yorkville City Council from any member or representative of the Friends of Greater Yorkville or any of its [sic] members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is vague and does not relate to the Application or any aspect of this siting appeal. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession.

7. All documents in the possession or control of Respondent portraying the proposed Fox Moraine landfill or any property located within one (1) mile of the proposed Fox Moraine landfill that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, ambiguous and vague. Further, this Request is not limited to information that is relevant to this appeal or is reasonably calculated to lead to the discovery of admissible evidence.

8. Any document received or created by any member of the Yorkville City Council portraying the proposed Fox Moraine landfill or any property located within one (1) mile of the proposed Fox Moraine landfill that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, ambiguous and vague. Further, this Request is

not limited to information that is relevant to this appeal or is reasonably calculated to lead to the discovery of admissible evidence.

9. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, considered by the Yorkville City Council regarding the Application.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Yorkville further objects to the extent this Request seeks information protected from discovery by legislative or deliberative or other privilege. For example, notes taken by Council Members at public hearing sessions are privileged and exempt from disclosure. Subject to and without waiver of the foregoing, Yorkville states that it is not currently aware of any documents in its possession that are responsive to this request.

10. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, available to the Yorkville City Council in its consideration of the Application.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Yorkville further objects to the extent this Request seeks information protected from discovery by legislative or deliberative or other privilege. For example, notes taken by Council Members at public hearing sessions are privileged and exempt from disclosure. Subject to and without waiver of the foregoing, Yorkville states that it is not currently aware of any documents in its possession that are responsive to this request.

11. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and

transcripts, received from any source by the Yorkville City Council regarding Fox Moraine's request for annexation.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Further, this Request is not limited to information that is relevant to this appeal or is reasonably calculated to lead to the discovery of admissible evidence.

12. All documents, not otherwise filed with the Pollution Control Board as part of the record herein, including, without limitation, notes, drafts, memoranda, correspondence and transcripts, received from any source by the Yorkville City Council regarding Fox Moraine's request to vacate a portion of Sleepy Hollow Road.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Further, this Request is not limited to information that is relevant to this appeal or is reasonably calculated to lead to the discovery of admissible evidence.

13. All documents in the possession or control of Respondent reflecting receipt of any funds, contribution, services or anything else of monetary value by any member of the Yorkville City Council from the Friends of Greater Yorkville or any of its [sic] members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because the terms "contribution," "services," and "anything else of monetary value" are not defined and are susceptible to multiple interpretations. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession, if any.

14. Any document received or created by any member of the Yorkville City Council relating to any election or reelection campaign and mentioning, received from or sent to the Friends of Greater Yorkville or any of its [sic] members or representatives, the law firm of Jeep and Blazer or any of its principals or employees, Kendall Land & Cattle Company or any of its principals or representatives that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession, if any.

15. Any document received or created by any member of the Yorkville City Council reflecting membership of any member of the Yorkville City Council in the Friends of Greater Yorkville that was not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: Subject to and without waiver of its General Objections, Yorkville will produce responsive documents within its possession, if any.

16. All documents in the possession or control of Respondent reflecting any opinion or position on the Siting Application of any member of the Yorkville City Council that were not included in the Record filed with the Pollution Control Board pursuant to Illinois Administrative Code Title 35, Section 107.300.

RESPONSE: In addition to its General Objections, Yorkville objects to this Request because it is overly broad, unduly burdensome, and vague. Yorkville further objects to the extent this Request seeks information protected from discovery by legislative or deliberative or other privilege. For example, notes taken by Council Members at public hearing sessions are privileged and exempt from disclosure. Subject to and without waiver of the foregoing, Yorkville will produce responsive documents within its possession, if any.

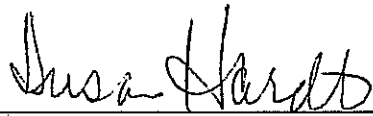
UNITED CITY OF YORKVILLE,
CITY COUNCIL

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CERTIFICATE OF SERVICE

I, Susan Hardt, a non-attorney, certify that I served a copy of the foregoing **Respondent, Yorkville City Council's Objections and Responses to Petitioner's First Set of Requests to Produce**, on all Counsel of Record and the Hearing Officer, listed on the attached Service list, via e-mail and by sending them via First Class Mail on September 28, 2007, before 5:00 p.m.



[x] Under penalties as provided by law pursuant to ILL. REV. STAT. CHAP. 110 – SEC 1-109, I certify that the statements set forth herein are true and correct.

Fox Moraine, LLC v. United City of Yorkville, City Council
PCB No. 07-146

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