

## ILLINOIS POLLUTION CONTROL BOARD

June 18, 2008

FOX MORaine, L.L.C.,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	PCB 07-146
UNITED CITY OF YORKVILLE, CITY	)	(Pollution Control Facility
COUNCIL,	)	Siting Appeal)
	)	
Respondent.	)	
	)	
	)	
KENDALL COUNTY,	)	
	)	
Intervenor.	)	

**HEARING OFFICER ORDER****Procedural History**

On July 12, 2007, the Board accepted petitioner's petition for hearing. On August 23, 2007, the Board granted Kendall County's motion to intervene. On December 6, 2007, the Board denied friends of Greater Yorkville (FGY) motion to intervene. The Board did, however, allow FGY to file an amicus curie brief with the Board consistent with the briefing schedule when established by the hearing officer. On May 20, 2008, FGY filed a motion to compel case participants to add FGY to service lists. On May 23, 2008, petitioner filed a response to FGY's motion to compel.

**FGY Motion To Compel**

FGY cites to the definition of service list in support of its motion that "the Hearing Officer enter an Order compelling the **other parties** to this case to serve copies of all documents that the participants file with the Clerk upon the attorney for Friends of Greater Yorkville". Motion at 2. (emphasis added) *See* Section 101.202 of the Board's procedural rules.

**Petitioner's Response to Motion to Compel**

Petitioner argues that since FGY is not a party to the above-captioned matter, they have no standing to file motions and their motion to compel should be denied. Petitioner adds that "[t]here is no rule which requires a non-party to be placed on a service list

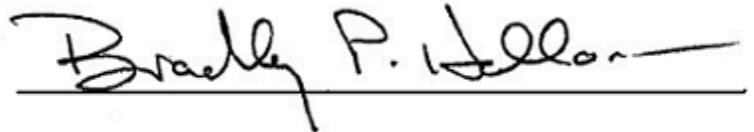
simply because they have been granted leave to file an Amicus Brief, nor is there authority for such a proposition". Response at 1.

**Ruling**

Petitioner is correct in its assertion that FGY is not a party to the above-captioned proceeding. FGY, however, is a participant, and is listed on the Board's docket sheet under service list. *See* Section 101.202 of the Board's procedural rules. The Board's rules are unclear whether parties are required to serve participants listed on the service list, but the rules allow the hearing officer discretion regarding service issues. *See* Section 101.202 of the Board's procedural rules. To that end, FGY's motion is granted and the hearing officer directs from this date forward that all parties and participants listed on the Board's service list serve each other copies of all documents that are filed with the Clerk of the Board.

The parties or their legal representatives are directed to appear at a telephonic status conference with the hearing officer on June 26, 2008, at 1:30 p.m. Please inform the hearing officer if this date and time is inconvenient. The telephonic conference must be initiated by the petitioner, but each party is nonetheless responsible for its own appearance. The petitioner represented that the conference call-in number will be the same as on May 8, 2008. At the conference the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

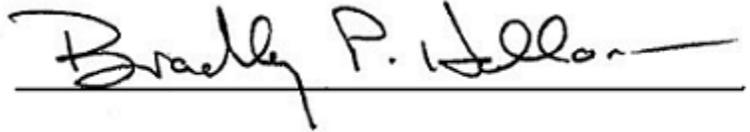
Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph Street  
Chicago, Illinois 60601  
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order was mailed, first class, on June 18, 2008 to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on June 18, 2008:

John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath it.

Bradley P. Halloran  
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