

0198-001

ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

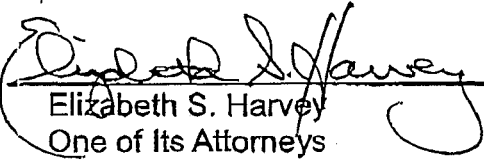
CITY OF KANKAKEE,)	
)	PCB 03-125
Petitioner,)	PCB 03-133
	)	PCB 03-134
v.	)	PCB 03-135
	)	(consolidated)
COUNTY OF KANKAKEE, COUNTY	)	(Pollution Control Facility Siting Appeals)
BOARD OF KANKAKEE, and WASTE)	
MANAGEMENT OF ILLINOIS, INC.)	
)	
Respondents.)	

NOTICE OF FILING

To: (See attached Service List.)

PLEASE TAKE NOTICE that on this 30th day of April 2003, the following County's **Motion to Quash Subpoena** was filed with the Illinois Pollution Control Board, attached and herewith served upon you.

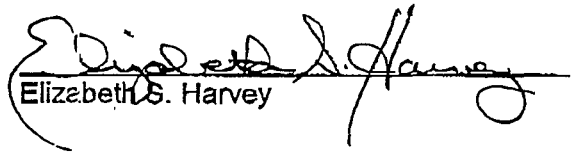
COUNTY OF KANKAKEE and
COUNTY BOARD OF KANKAKEE

By: 
Elizabeth S. Harvey
One of Its Attorneys

Elizabeth S. Harvey
SWANSON, MARTIN & BELL
One IBM Plaza, Suite 2900
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Chicago, Illinois 60611
Telephone: (312) 321-9100
Firm I.D. No. 29558

CERTIFICATE OF SERVICE

I, the undersigned, state that I served a copy of the described document in the above-captioned matter via facsimile (pursuant to verbal authorization by the hearing officer) and U.S. Mail to all persons listed on the service list on April 30, 2003.


Elizabeth S. Harvey

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.

SERVICE LIST
KANKAKEE COUNTY/WMII LANDFILL SITING

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Charles F. Helsten
Richard Porter
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105

Kenneth A. Leshen
One Dearborn Square
Suite 550
Kankakee, IL 60901

Donald Moran
Pedersen & Houpt
161 North Clark Street
Suite 3100
Chicago, IL 60601-3242

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George Mueller, P.C.
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Ottawa, IL 61350

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175 West Jackson Boulevard
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923 West Gordon Terrace, #3
Chicago, IL 60613-2013

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Patricia O'Dell
1242 Arrowhead Drive
Bourbonnais, IL 60914

ILLINOIS POLLUTION CONTROL BOARD

CITY OF KANKAKEE,)	
	)	PCB 03-125
Petitioner,	)	PCB 03-133
	)	PCB 03-134
v.	)	PCB 03-135
	)	(consolidated)
COUNTY OF KANKAKEE, COUNTY	)	(Pollution Control Facility Siting Appeals)
BOARD OF KANKAKEE, and WASTE)	
MANAGEMENT OF ILLINOIS, INC.)	
)	
Respondents.)	

MOTION TO QUASH SUBPOENA

Respondent COUNTY BOARD OF KANKAKEE ("County"), by its attorneys Hinshaw & Culbertson and Swanson, Martin & Bell, hereby move the hearing officer to quash the subpoena for deposition served by petitioner MICHAEL WATSON ("Watson") on Efraim Gil.

1. Watson has subpoenaed Mr. Gil¹ for his deposition, setting the deposition for today, April 30, 2003, at 10:00 a.m. The proof of service indicates that the subpoena was sent to Mr. Gil on April 25, 2003, via certified mail and via Federal Express. (See subpoena, attached as Exhibit A.)
2. On information and belief, Mr. Gil and his wife were out of state until yesterday, April 29, 2003. While they were out of state, Mr. Gil was hospitalized for health issues related to high blood sugar.
3. Upon their return yesterday, Mr. Gil received the subpoena for his deposition. Mrs. Gil informed counsel late yesterday afternoon (April 29, 2003) that Mr. Gil is unable to appear for deposition.

¹ Mr. Gil is a former County employee. The County is providing a courtesy representation to Mr. Gil, as the subject of his requested deposition in this matter arises from his former employment with the County.

4. Mr. Gil cannot appear at the subpoenaed deposition today, April 30, 2003, as he has a doctor's appointment in Chicago. His appointment, which is continuing care for the medical problems which caused his recent hospitalization, is with Dr. David Edelberg.
5. Additionally, on information and belief, Mr. Gil's health makes it impossible for him to appear for his deposition at another time during this proceeding. The County will supplement this motion to quash with documentation from Dr. Edelberg as soon as possible.
6. Pursuant to Section 101.620(d) of the Board's procedural rules, the hearing officer may quash a subpoena if that subpoena is unreasonable or irrelevant.
7. The County moves the hearing officer to quash the subpoena to Mr. Gil as unreasonable, given Mr. Gil's health. The subpoena should be quashed as to the noticed deposition for today, April 30, as Mr. Gil will be in Chicago at the required appointment with Dr. Edelberg. Further, the subpoena should be quashed as to any deposition of Mr. Gil, on the basis of his health.

WHEREFORE, the County moves that the hearing officer quash the subpoena for Mr. Gil's deposition, and for such other relief as the hearing officer deems appropriate.

Respectfully submitted,

COUNTY OF KANKAKEE and
COUNTY BOARD OF KANKAKEE

By: 
Elizabeth S. Harvey
One of Its Attorneys

Charles F. Helsten
Richard Porter
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
815/490-4900

Elizabeth S. Harvey
Swanson, Martin & Bell
One IBM Plaza, Suite 2900
330 North Wabash Avenue
Chicago, IL 60611
312/321-9100

Before the Illinois Pollution Control Board

MICHAEL WATSON)
 _____)
 _____)
 _____)
 Complainant/Petitioner,)
 v.)
COUNTY BOARD OF KANKAKEE COUNTY,)
ILLINOIS, and WASTE MANAGEMENT OF)
ILLINOIS, INC.,)
 _____)
 Respondent)

PCB 03-134
 Consolidated With PCB 03-125, 03-133,
 03-135, 03-144)

SUBPOENA/SUBPOENA DUCES TECUM

TO: Efrain Gil
9 Dunlap Rd. 32-1
Park Forest, IL 60466-1840

Pursuant to Section 5(e) of the Environmental Protection Act (415 ILCS 5/5(e)
 (2002)) and 35 Ill. Adm. Code 101.622, you are ordered to attend and give testimony at
 the hearing (deposition) in the above-captioned matter at _____

10 a.m. on April 30 2003, at

Kankakee City Hall, Council Chambers, 385 E. Oak, Kankakee, Illinois

Exhibit
 A

You are also ordered to bring with you documents relevant to the matter under

consideration and designated herein: including, but not limited to

your calendar, notes, drawings, correspondence, audio
and video, and all documents and materials related

to Waste Management of Illinois, Inc's application to locate
an expansion of Kankakee RDF, no matter when such application
Failure to comply with this subpoena will subject you to sanctions under 35 Ill. was filed
during 2002

Adm. Code 101.622(g), 101.800, and 101.802.

ENTER:

Dorothy M. Gunn, Clerk
Pollution Control Board

Date: March 25, 2003

CERTIFICATE OF SERVICE

I, Jennifer Fohlenz, attorney, certify that on this 25th day
of April 20 03, I caused copies of the SUBPOENA/SUBPOENA
DUCES TECUM to be served upon the following:

Efrain Gil

Certified Mail; Return Receipt Requested
by depositing same in United States Post Office, postage prepaid.
and via Federal Express.

(Signature)

RECEIVED
CLERK'S OFFICE

APR 30 2003

STATE OF ILLINOIS
Pollution Control Board

SWANSON, MARTIN & BELL
ONE IBM PLAZA - SUITE 2900
330 NORTH WABASH AVENUE
CHICAGO, ILLINOIS 60611
(312) 321-9100 - FAX (312) 321-0990

FACSIMILE TRANSMISSION

Date: April ³⁰~~29~~, 2003

Pages Transmitted: 9
(including cover page)

User's Direct Dial Line: (312) 923-8260

Client No.: 0198-001

Transmitting to: **Brad Halloran----(312) 814-3669**

- Jennifer Pohlenz -- (312) 540-0578**
- Kenneth A. Leshen -- (815) 933-3397**
- George Mueller -- (815) 433-4913**
- L. Patrick Power -- (815) 937-0056**
- Keith Runyon -- (815) 937-9164**
- Donald Moran -- (312) 261-1149**
- Rick Porter/Charles F. Helsten -- (815) 490-4901**

Received from: Elizabeth S. Harvey

Attached please find the County's motion to quash subpoena, filed via facsimile pursuant to verbal authorization by the hearing officer.

If you do not receive all transmitted pages, please call Shel at (312) 321-9100.

This facsimile is intended only for the use of the addressee(s) herein and may contain legally-privileged and confidential information. If you are not the intended recipient of this facsimile, you are hereby notified that any dissemination, distribution or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone (if long-distance, please call collect), and return the original facsimile to the sender's attention at the above address via the United States Postal Service.