

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARTIN MAGGIO,)

Petitioner,)

vs.) No. PCB 13-10

COUNTY OF WINNEBAGO,)

WINNEBAGO COUNTY BOARD)

AND WINNEBAGO LANDFILL)

COMPANY, LLC,)

Respondents.)

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STATE OF ILLINOIS
Pollution Control Board

TRANSCRIPT FROM THE PROCEEDINGS

taken before the HEARING OFFICER BRADLEY HALLORAN by Kari Wiedenhaupt, CSR, at the Winnebago County Administration Building, 404 Elm Street, Rockford, Illinois, on the 4th day of December, 2012, A.D., at 9:00 o'clock a.m.

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APPEARANCES:

ILLINOIS POLLUTION CONTROL BOARD,
BY: MR. BRADLEY HALLORAN
Hearing Officer
100 West Randolph Street
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Representing the Winnebago Lanfill
Company, LLC.

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I N D E X

WITNESS EXAMINATION
(None.)

E X H I B I T S

NUMBER MARKED FOR ID
Petitioner Exhibit
Nos. 1-5 10

1 HEARING OFFICER HALLORAN: Good morning. My
2 name is Bradley Halloran. I am the hearing
3 officer with the Illinois Pollution Control
4 Board. I am also assigned to this matter
5 entitled, Martin Maggio, petitioner, versus
6 County of Winnebago, Winnebago County Board and
7 Winnebago Landfill Company, LLC, respondents.

8 We have it as Docket PCB 13-10. It's a
9 third-party pollution control facility siting
10 appeal. Today is December 4th, 2012. It's
11 approximately 9:00 a.m. This hearing has been
12 scheduled and noticed according to the Illinois
13 Pollution Control Board's rules and procedures
14 and the Environmental Protection Act. It will
15 be conducted according to procedural rules found
16 in the Board Rules found in Section 107 and 101
17 of the Board's procedural rules.

18 Please know that I don't make the
19 ultimate decision in this matter. I rule on
20 evidentiary matters and make sure that the
21 hearing goes smoothly. It's up to the five
22 board members, and what they will do is review
23 the record, review the post-hearing briefs, the
24 transcript and any exhibits to arrive at their

1 decision.

2 And I do want to note -- and I am
3 reading from the Pollution Control Board's
4 August 23rd, 2012, order where they accepted a
5 case, and I am reading from the third paragraph
6 to give you a little background in the matter.
7 The Board states, "In this case, petitioner
8 appeals on the grounds that the county board did
9 not have proper jurisdiction to conduct public
10 hearings on WLLC's application due to failure to
11 serve notice and that the proceedings were not
12 fundamentally fair. And then they went ahead
13 and accepted the case.

14 With that said, we will go ahead around
15 the table and introduce the parties. Mr.
16 Blazer?

17 MR. BLAZER: Thank you, Mr. Halloran.
18 Michael Blazer for the petitioner, Martin
19 Maggio.

20 MR. KURLINKUS: David Kurlinkus on the behalf
21 of the County of Winnebago.

22 MR. MUELLER: George Mueller for Winnebago
23 Landfill, LLC.

24 MR. HELSTEN: And Charles Helsten for

1 Winnebago Landfill, LLC as well.

2 HEARING OFFICER HALLORAN: Thank you,
3 gentlemen. I'm not sure. Do we want to do any
4 openings, or do you want to save those for later
5 during briefs?

6 MR. BLAZER: My suggestion is we save it for
7 the briefs, Mr. Halloran. I think Mr. Mueller
8 and I have stipulated to pretty much everything.
9 So we probably can save the time and use it
10 better later.

11 HEARING OFFICER HALLORAN: Okay. Proceed.

12 MR. BLAZER: There are a couple of
13 preliminary matters. I had indicated this a
14 couple of status conferences ago, and I will
15 file a written motion. I neglected to do that,
16 but with respect to the two bases for our appeal
17 that you just read into the record, we are
18 withdrawing our fundamental fairness claim and
19 just to tidy up the record, I will -- I will
20 file a written motion to that effect -- or a
21 written notice to that effect. Excuse me.

22 And then, secondly, we had issued a
23 deposition subpoena to the hearing officer in
24 the underlying siting proceeding, Mr. Price, and

1 we are formally withdrawing that subpoena.

2 HEARING OFFICER HALLORAN: Okay. With that
3 said, Mr. Price filed a motion to quash the
4 subpoena. So we will consider his motion moot.

5 MR. BLAZER: Correct. Then the only other
6 thing we have, Mr. Halloran, is five petitioner
7 exhibits. The first, Petitioner's 1, is a
8 stipulation that has been executed by myself and
9 Mr. Mueller that deals with the underlying facts
10 that lead to our claim for the lack of
11 jurisdiction. I will tender the original of
12 that to you.

13 HEARING OFFICER HALLORAN: Thank you, sir.

14 MR. MUELLER: I have got one. I don't have
15 any of the others.

16 MR. BLAZER: Secondly, Petitioner's 2 is an
17 excerpt from the siting application that is in
18 the record. It was -- the entire underlying
19 record was submitted by the county.

20 Petitioner's 2 is just a portion of
21 Appendix D of the siting application, which
22 includes the site drawing of the site that's at
23 issue in this case. And all of the -- most of
24 the documents I am going to be referring to are

1 already in the record except for one. I have
2 done this simply because while the record is
3 quite voluminous, the issues to be decided by
4 the Board are actually very narrow. And the
5 documents I am going to be tendering relate
6 solely to the jurisdiction issue.

7 And that way the Board won't have to go
8 wading through several thousands of pages of
9 record that Mr. Kurlinkus was so kind as to
10 file. So that's Petitioner's 2.

11 Petitioner's 3 is a series of printouts
12 from the Winnebago and Ogle County Recorder's
13 records or tax records. They are the maps and
14 descriptions of the parcels that are identified
15 in the stipulation which is Petitioner's 1.

16 HEARING OFFICER HALLORAN: Thank you, sir.

17 MR. BLAZER: Petitioner's 4 is the resolution
18 from Winnebago County which approved the siting
19 application, and that's also already in the
20 record, but again, it will make it easier in
21 this proceeding moving forward.

22 And then Petitioner's 5 is the report
23 of the hearing officer in the siting proceeding,
24 which is incorporated in Petitioner's 4 in the

1 county's decision document. And that's all we
2 have.

3 HEARING OFFICER HALLORAN: All right. So
4 without objection, Petitioner's Exhibits 1
5 through 5 are admitted.

6 MR. KURLINKUS: If I can have one moment. If
7 we can go off the record, I need to talk to Mr.
8 Blazer.

9 (Whereupon, a discussion was had
10 off the record.)

11 HEARING OFFICER HALLORAN: We are back on the
12 record.

13 MR. BLAZER: Mr. Mueller pointed out to me
14 that the addresses that are reflected in the
15 county printouts, which are Petitioner's 3, may
16 not all be accurate. We had tendered this
17 solely to identify the parcels and parcel
18 numbers, which are on the records and that's the
19 sole reason we are tendering them. We don't
20 vouch for, nor are we particularly concerned
21 about the addresses.

22 MR. MUELLER: So to make it clear, Mr.
23 Halloran, the addresses represented on
24 petitioner's Exhibit 3 are not necessarily the

1 addresses shown on the authentic tax records of
2 the county. We believe the addresses shown on
3 the authentic tax records are set forth in the
4 tracking summary that is part of Petitioner's
5 Exhibit 1.

6 MR. BLAZER: Correct.

7 HEARING OFFICER HALLORAN: Okay. Thanks.
8 With that cleared up, no objection to --

9 MR. MUELLER: No objection.

10 HEARING OFFICER HALLORAN: Thank you.
11 Petitioner's Exhibits 1 through 5 are admitted
12 with that qualification.

13 (Whereupon, Petitioner's Exhibit
14 Nos. 1-5 were marked for
15 identification and admitted
16 into evidence.)

17 MR. BLAZER: And Mr. Halloran, that is the
18 entirety of our case.

19 HEARING OFFICER HALLORAN: All right. So Mr.
20 Blazer rests his case. Respondents, do you rest
21 yours as well?

22 MR. MUELLER: We have no evidence to offer.

23 HEARING OFFICER HALLORAN: Okay. What we
24 will do and what we did prior to starting this

1 hearing is we set a briefing schedule. By
2 contract I believe the transcript should be
3 ready by December 14th, and that will be filed
4 by the Board by the court reporter or sooner.

5 We are going to have the record closed
6 on January 30th. Petitioner has until
7 January 2nd, 2013 to file his post-hearing
8 brief. Respondents have until January 23rd to
9 file their post-hearing briefs, and then Mr.
10 Blazer has until January 30th to file his reply,
11 if any. And regarding the January 30th reply
12 date, we have agreed that the mailbox rule does
13 not apply. So have it filed with the Board by
14 January 30th --

15 MR. BLAZER: If not sooner.

16 HEARING OFFICER HALLORAN: Thank you, Mr.
17 Blazer.

18 Anything else we need to discuss? All
19 right. That concludes the hearing, and I do
20 want to thank you, you know, again, for your
21 professionalism. It's been an absolute pleasure
22 working with you gentlemen. And before I go off
23 the record, I want to note there are no members
24 of the public here. It's just a few interested

1 parties.

2 Thank you so much and have a great day.

3 (END OF PROCEEDINGS.)

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1 I, KARI WIEDENHAUPT, do hereby certify
2 that the foregoing was reported by stenographic
3 and mechanical means, which matter was held on
4 the date, and at the time and place set out on
5 the title page hereof and that the foregoing
6 constitutes a true and accurate transcript of
7 same.

8 I further certify that I am not related
9 to any of the parties, nor am I an employee of
10 or related to any of the attorneys representing
11 the parties, and I have no financial interest in
12 the outcome of this matter.

13 I have hereunder subscribed my hand on
14 the 12th day of December, 2012.

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Kari Wiedenhaupt

KARI WIEDENHAUPT, CSR

<p style="text-align: center;">A</p> <p>A.D 1:17 a.m 1:17 4:11 absolute 11:21 accepted 5:4,13 accurate 9:16 13:6 Act 4:14 addresses 9:14 9:21,23 10:1,2 Administration 1:15 admitted 9:5 10:11,15 ago 6:14 agreed 11:12 ahead 5:12,14 ANDERSON 2:15 appeal 4:10 6:16 appeals 5:8 APPEARAN... 2:2 Appendix 7:21 application 5:10 7:17,21 8:19 apply 11:13 approved 8:18 approximately 4:11 arrive 4:24 assigned 4:4 ASSOCIATES 2:15 ATTORNEY 2:11 attorneys 13:10 August 5:4 authentic 10:1,3 AVENUE 2:7</p>	<p>better 6:10 Blazer 2:6,7 5:16,17,18 6:6 6:12 7:5,16 8:17 9:8,13 10:6,17,20 11:10,15,17 board 1:2,7 2:2 4:4,6,16,22 5:7 5:8 8:4,7 11:4 11:13 Board's 4:13,17 5:3 Bradley 1:13 2:3 4:2 brief 11:8 briefing 11:1 briefs 4:23 6:5,7 11:9 Building 1:15</p>	<p>10:2 county's 9:1 couple 6:12,14 court 11:4 CSR 1:14 13:21</p> <p style="text-align: center;">D</p> <p>D 3:3 7:21 date 11:12 13:4 David 2:11 5:20 day 1:16 12:2 13:14 deals 7:9 December 1:17 4:10 11:3 13:14 decided 8:3 decision 4:19 5:1 9:1 deposition 6:23 DEPUTY 2:11 descriptions 8:14 discuss 11:18 discussion 9:9 Docket 4:8 document 9:1 documents 7:24 8:5 drawing 7:22 due 5:10</p>	<p>Excuse 6:21 executed 7:8 Exhibit 3:13 9:24 10:5,13 exhibits 4:24 7:7 9:4 10:11</p> <p style="text-align: center;">F</p> <p>facility 4:9 facts 7:9 failure 5:10 fair 5:12 fairness 6:18 file 6:15,20 8:10 11:7,9,10 filed 7:3 11:3,13 financial 13:11 first 7:7 five 4:21 7:6 foregoing 13:2,5 formally 7:1 forth 10:3 forward 8:21 found 4:15,16 fundamental 6:18 fundamentally 5:12 further 13:8</p>	<p>7:13 8:16 9:3 9:11,23 10:7 10:10,17,19,23 11:16 hand 13:13 hearing 1:13 2:3 4:1,2,11,21 6:2 6:11,23 7:2,13 8:16,23 9:3,11 10:7,10,19,23 11:1,16,19 hearings 5:10 held 13:3 Helsten 5:24,24 hereof 13:5 hereunder 13:13 HILLSIDE 2:7 2:8</p>
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