

0198-001

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ILLINOIS POLLUTION CONTROL BOARD

APR 29 2003

CITY OF KANKAKEE, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 COUNTY OF KANKAKEE, COUNTY )  
 BOARD OF KANKAKEE, and WASTE )  
 MANAGEMENT OF ILLINOIS, INC. )  
 )  
 Respondents. )

STATE OF ILLINOIS  
*Pollution Control Board*


PCB 03-125  
 PCB 03-133  
 PCB 03-134  
 PCB 03-135  
 (consolidated)  
 (Pollution Control Facility Siting Appeals)

**NOTICE OF FILING**

To: (See attached Service List.)

PLEASE TAKE NOTICE that on this 29th day of April 2003, the following County's **Response to City's Motion to Compel** (*previously served via facsimile*) was filed with the Illinois Pollution Control Board, attached and herewith served upon you.

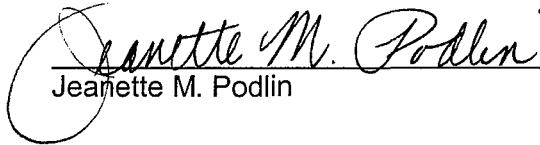
COUNTY OF KANKAKEE and  
COUNTY BOARD OF KANKAKEE

By:   
 Elizabeth S. Harvey  
 One of Its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned non-attorney, state that I served a copy of the described document in the above-captioned matter via U.S. Mail to all counsel of record on April 29, 2003.

  
\_\_\_\_\_  
Jeanette M. Podlin

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.

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ILLINOIS POLLUTION CONTROL BOARD

CITY OF KANKAKEE,	)		
	)	PCB 03-125	STATE OF ILLINOIS
Petitioner,	)	PCB 03-133	<i>Pollution Control Board</i>
	)	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.	)		

**RESPONSE TO MOTION TO COMPEL**

Respondent COUNTY BOARD OF KANKAKEE ("County"), by its attorneys Hinshaw & Culbertson and Swanson, Martin & Bell, hereby responds to petitioner the CITY OF KANKAKEE's ("City") motion to compel.

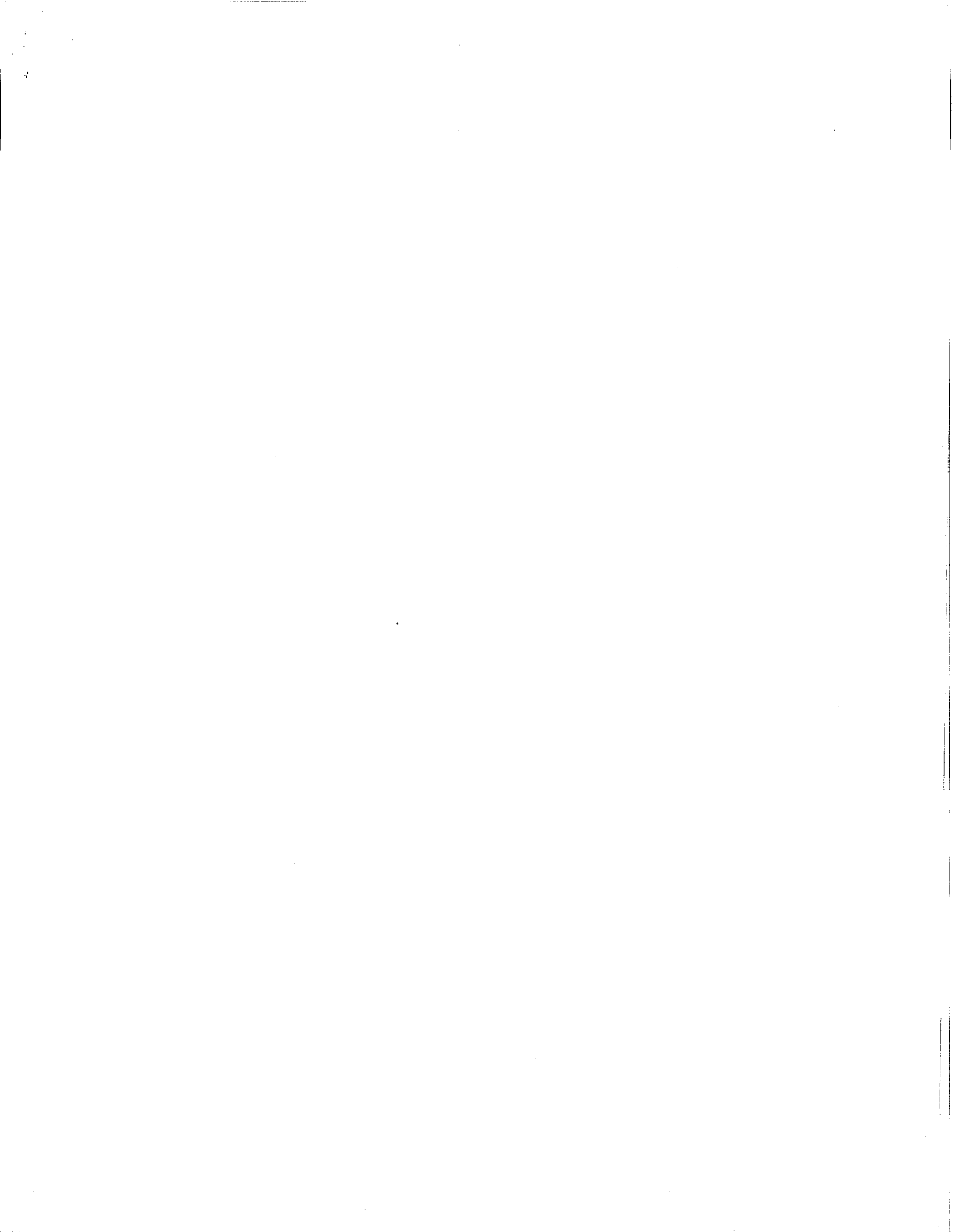
1. On April 24, 2003, the City served its motion to compel, via facsimile, on the County. The City seeks production of invoices from Hinshaw & Culbertson, one of the law firms representing the County in this siting proceeding. During the April 24, 2003 status conference in this matter, the hearing officer directed the County to respond by April 28, 2003, and gave the County leave to file its response via facsimile.
2. The City did not contact the County to discuss the production of additional invoices prior to filing the motion to compel, and thus has not complied with Supreme Court Rule 201(k).<sup>1</sup>
3. The County had previously responded to the City's request for Hinshaw & Culbertson invoices by noting that those invoices are in the County's record on

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<sup>1</sup> The County recognizes that Rule 201(k) does not specifically apply to Board proceedings; however the Board's rules provide that the Supreme Court Rules provide guidance in Board cases. 35 Ill.Adm.Code 101.100(b). In any event, a phone call from the City's attorneys to the County's attorneys may very well have resolved this issue without the necessity for a motion to compel.

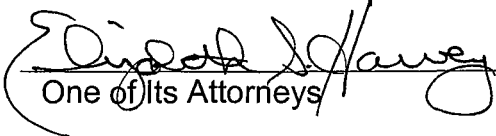
appeal. However, further investigation reveals that the invoices in the County's record are not complete.

4. Therefore, the County will produce invoices from Hinshaw & Culbertson, through January 31, 2003. That date is the date of the County's decision on the siting application, and thus the end of Hinshaw & Culbertson's involvement in the local siting proceeding.
5. The County objects to the production of any invoice after January 31, 2003, as irrelevant. The County understands that the City's purpose in seeking the invoices is for information which may relate to the City's claims of fundamental unfairness. As the local siting proceeding concluded on January 31, 2003, no information contained in invoices for services performed after January 31, 2003 can be relevant to this appeal.
6. The County further objects to the production of any invoice after January 31, 2003 as attorney-client privileged. Hinshaw & Culbertson represents the County in this appeal, and its invoices after January 31, 2003 may reflect strategy and privileged information related to the defense of this appeal.
7. In short, the County will produce Hinshaw & Culbertson invoices for services rendered in connection with the local siting proceeding, through January 31, 2003. The County objects to the production of any invoice for services after January 31, 2003, as irrelevant and subject to the attorney-client privilege .



Respectfully submitted,

COUNTY OF KANKAKEE and  
COUNTY BOARD OF KANKAKEE

By:   
One of Its Attorneys

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