



AFFIDAVIT OF SERVICE

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF WINNEBAGO    )

The undersigned certifies that on **October 6, 2015**, a copy of the foregoing **Petitioner's PETITION FOR REVIEW OF LOCAL SITING APPROVAL FOR NEW POLLUTION CONTROL FACILITY** was served upon the following:

George Mueller  
Mueller Anderson & Assoc., PC  
609 E. Etna Road  
Ottawa, IL 61350  
[gmueller21@sbeglobal.net](mailto:gmueller21@sbeglobal.net)  
[george@muelleranderson.com](mailto:george@muelleranderson.com)

Robert M. Joutras  
Clerk, Village of Rockdale,  
79 Moen Ave.  
Rockdale, IL 60436  
[joutras@rockdaleillinois.org](mailto:joutras@rockdaleillinois.org)

Mike Stiff,  
Village of Rockdale Attorney,  
Spesia & Ayers  
1415 Black Road,  
Joliet, IL 60435  
[mstiff@spesia-ayers.com](mailto:mstiff@spesia-ayers.com)

by e-mailing a copy thereof as addressed above.



HINSHAW & CULBERTSON LLP  
100 Park Avenue  
P.O. Box 1389  
Rockford, IL 61105-1389  
815-490-4900



this Petition pursuant to Section 107.200(b) of the PCB procedural rules. 35 Ill. Admin. Code § 107.200(b). In addition, this Petition is not duplicative or frivolous.

5. Prior to filing its application, the Applicant sent a pre-filing notice representing, as part of the nature and size of the Facility, that the proposed average throughput would be 200 tons per day.

6. On the first day of the public hearing, counsel for the Applicant provided an "errata" to the Application. This "errata" included new data and made significant changes to the Application. Therefore, the hearing officer determined that the Application had been *de facto* amended.

7. On the last day of the public hearing, after the Application had already been amended, the Applicant "clarified" that the "average" throughput stated in the pre-filing notice was actually a minimum throughput, that there was no proposed maximum throughput, and that the Facility was proposed to handle significantly more than the 200 tons per day set forth in the pre-filing notice.

8. Because the pre-filing notice, which is a jurisdictional requirement of Section 39.2(b), did not set forth the "nature of the activity proposed," that notice was fatally flawed so as to divest the Village Board of jurisdiction. The Village Board's decision to grant siting approval should therefore be reversed.

9. On September 3, 2015, the Village Board "conditionally" approved the Application. A true and correct copy of the Village Board decision granting same is attached hereto as Exhibit A. A "conditional" approval in the manner employed by the Village Board is not authorized by Section 39.2 of the Act.

10. The substantial change in projected throughput numbers also amounted to a second amendment of the Application, in violation of Section 39.2(e) of the Act, and, accordingly, the Village Board's decision to grant siting approval should be reversed.

11. The Village Board's decision to grant siting approval should also be reversed because the Applicant failed to establish that it met the following criteria as required by Section 39.2(a) of the Act:

- (i) The Facility is necessary to accommodate the waste needs of the area it is intended to serve;
- (ii) The Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- (iii) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

WHEREFORE, Will County requests that the PCB enter an Order:

- (a) Setting for hearing this contest of the Village Board's siting decision;
- (b) Reversing the Village Board siting approval decision; and
- (c) Providing such other and further relief as the Board deems appropriate.

Dated: October 6, 2015

Respectfully submitted,

On behalf of WILL COUNTY, ILLINOIS

/s/ Charles F. Helsten

Charles F. Helsten  
One of Its Attorneys

Charles F. Helsten ARDC 6187258  
Peggy L. Crane  
HINSHAW & CULBERTSON LLP  
100 Park Avenue  
P.O. Box 1389  
Rockford, IL 61105-1389  
815-490-4900

