



0198-001

**RECEIVED**  
CLERK'S OFFICE  
APR 28 2003

ILLINOIS POLLUTION CONTROL BOARD

**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.	)	

**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

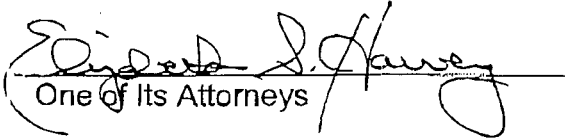
<sup>1</sup> The County recognizes that Rule 201(k) does not specifically apply to Board proceedings; however the Board's rules provide that the Supreme Court Rules provide guidance in Board cases. 35 Ill. Adm. Code 101.100(b). In any event, a phone call from the City's attorneys to the County's attorneys 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

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

**RECEIVED**  
CLERK'S OFFICE

APR 28 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 28, 2003

Pages Transmitted: 4  
(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. Leshem -- (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 -- (815) 490-4901**

Received from: Elizabeth S. Harvey

**Attached please find the County's response to the City's motion to compel, filed via facsimile pursuant to the hearing officer's authorization.**



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.