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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
	)	PCB 03-144 (consolidated)
COUNTY OF KANKAKEE, COUNTY	)	(Pollution Control Facility Siting Appeals)
BOARD OF KANKAKEE, and WASTE	)	
MANAGEMENT OF ILLINOIS, INC.	)	
	)	
Respondents.	)	

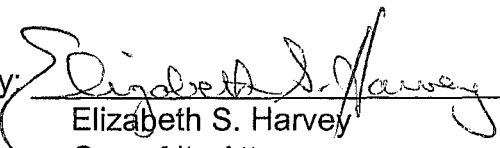
**NOTICE OF FILING**

To: (See attached Service List.)

PLEASE TAKE NOTICE that on this 10th day of April 2003, the following were filed with the Illinois Pollution Control Board, attached and herewith served upon you:

**The County of Kankakee's Objections to Watson's Interrogatories**  
**The County of Kankakee's Objections to Watson's Document Requests**  
**The County of Kankakee's Motion to Quash Subpoena**  
**The County of Kankakee's Objections to City of Kankakee's Interrogatories**  
**The County of Kankakee's Objections to City of Kankakee's Document Requests**

COUNTY OF KANKAKEE and  
COUNTY BOARD OF KANKAKEE

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One of Its Attorneys

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**\*\* Facsimile**

CERTIFICATE OF SERVICE

I, the undersigned non-attorney, state that I served copies of the described documents to all counsel of record in the above-captioned matter on April 10, 2003, via facsimile, hand-delivery, Federal Express, and U.S. Mail, as indicated on attached Service List.

  
\_\_\_\_\_  
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.

APR 10 2003

## ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
*Pollution Control Board*

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

**COUNTY BOARD OF KANKAKEE'S OBJECTIONS TO**  
**PETITIONER WATSON'S INTERROGATORIES**

Respondent COUNTY BOARD OF KANKAKEE ("County"), by its attorneys Hinshaw & Culbertson and Swanson, Martin & Bell, hereby object to some of the interrogatories filed by petitioner MICHAEL WATSON ("Watson").<sup>1</sup> These objections are directed to the hearing officer.

**Definitions**

The County objects to the definition of "relevant time period," which Watson states as "the period between August 1, 2001 and February 28, 2003." This time period is overly broad. Events outside the time period from August 16, 2002 (the date of filing of the siting application) to January 31, 2003 (the date of the County Board's decision on the siting application) are irrelevant to this appeal. 415 ILCS 5/40.1. This objection applies to each and every one of the Interrogatories propounded by Watson, regardless of whether that

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<sup>1</sup>

Pursuant to the hearing officer's direction, the County files these objections by noon on April 10, 2003. Responses to interrogatories which are not objected to in this filing will be filed no later than noon on April 18, 2003, pursuant to the discovery schedule in this matter.



interrogatory is specifically listed in the following objections.

**Interrogatories**

5. Identify all Person(s) involved in any way in the negotiation of the Host Agreement, and with respect to each Person so identified:
- a. Describe their role in such negotiations;
  - b. The time frame in which such negotiations were held;
  - c. Identify the Person(s) with whom they negotiated; and
  - d. The subject matter of the negotiations.

OBJECTION: The County objects to this Interrogatory in its entirety. Information regarding the Host Agreement is not relevant to this appeal, and is not reasonably calculated to lead to the discovery of relevant information. It is well settled that the drafting and adoption of a host agreement is a legislative function which is not an indication of prejudgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Host Agreement was negotiated and adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

6. Identify all Person(s) involved in any way with the drafting of the Host Agreement and, with respect to each Person so identified, describe which portions(s) of the Host Agreement they drafted.

OBJECTION: The County incorporates and restates its objection to Interrogatory Number 5 as if fully set forth herein.

7. Identify the date(s) on which the County Board approved the property value

protection plan attached as an Exhibit to the Host Agreement.

OBJECTION: The County incorporates and restates its objection to Interrogatory Number 5 as if fully set forth herein.

8. Identify any and all Communications concerning or relating to the Host Agreement between any of the individuals identified in each line below (e.g. item b. Below, seeks identification of communications between any Person included in the definition of "County" and any Person included in the definition of "County Board"):
- a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board (including, but not limited to those specific Persons identified in subparagraph f through m, below);
  - f. Dale Hoekstra and Karl Kruse;
  - g. Lee Addleman and Karl Kruse;
  - h. Dale Hoekstra and Pam Lee;
  - i. Lee Addleman and Pam Lee;
  - j. Dale Hoekstra and Mike Quigley;
  - k. Lee Addleman and Mike Quigley;
  - l. Dale Hoekstra and George Washington, Jr.;

- m. Lee Addleman and George Washington, Jr.;
- n. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- o. WMII and the County;
- p. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- q. WMII and the Kankakee County Board Chairman;
- r. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- s. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application.

OBJECTION: The County incorporates and restates its objection to Interrogatory Number 5 as if fully set forth herein.

- 9. Identify any and all Communications during the Relevant Time, concerning or relating to the Siting Application or any of its component parts between any of the individuals identified in each line below ((e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board")):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;

- c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
- d. The County and WMII;
- e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;

- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.;
- t. Any one or more of the attorneys at Swanson, Martin & Bell and any one or more of the attorneys at Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to the Siting Application. The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." See, e.g., *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

10. Identify any and all Communications concerning or relating to Kankakee County Resolution 01-10-09-393 between any of the individuals identified in each line below (e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board"):

- a. The staff or employees of Kankakee County and its consultants or attorneys;
- b. The County and any one or more members of the County Board;
- c. The County and any one or more members of the County Regional Planning

and Development [sic] Commission;

- d. The County and WMII;
- e. WMII and any one or more member of the County Board;
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application.

OBJECTION: The County objects to this Interrogatory in its entirety. Resolution 01-10-09-393, adopted on or about October 9, 2001, amends the County's solid waste management plan. Information regarding the solid waste management plan, including its adoption and amendments to the plan, is not relevant to this appeal, is not reasonably calculated to lead to the discovery of relevant information, is improper, and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption and amendment of solid waste management plans: "allegations concerning the adoption of the county's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal." *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243,

slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). ("Section 40.1 does not authorize the Board to review the process involved in the County's amendment of the Plan.") Further, any involvement by the County with the applicant in the amendment of the Plan does not create a suspicion of bias by the County in the siting process. *Residents Against a Polluted Environment*, 687 N.E.2d at 555. Additionally, the solid waste management plan, and resolutions amending that plan, were adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

11. Identify any and all Communications concerning or relating to the Kankakee County Resolution 02-03-12-481 between any of the individuals identified in each line below (e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board"):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board;
  - f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
  - g. WMII and the County;

- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application.

OBJECTION: The County incorporates and restates its objection to Interrogatory Number 10 as if fully set forth herein. Resolution 02-03-12-481 also relates to the amendment of the solid waste management. Thus, the objection raised to Interrogatory 10 is equally applicable to Interrogatory Number 11.

- 12. Identify any and all Communications during the Relevant Time, concerning or relating to the development, design, operation, or location of a landfill expansion by WMII in Kankakee County between any of the individuals identified in each line below (e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board"):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;



- d. The County and WMII;
- e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;

- s. Lee Addleman and George Washington, Jr.;
- t. Any one or more of the attorneys at Swanson, Martin & Bell and any one or more of the attorneys at Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the development, design, operation, or location of a landfill expansion by WMII in Kankakee County, and is not limited to the landfill expansion at issue in this appeal. Any theoretical communications relating to any other theoretical landfill expansion are beyond the scope of this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

- 13. Identify any and all Communications during the Relevant Time, concerning or relating to the development of a landfill expansion at, within or adjacent to the site that was the subject of the Siting Application between any of the individuals identified each line below (e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board"):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;

- e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.;

- t. Any one or more of the attorneys at Swanson, Martin & Bell and any one or more of the attorneys at Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the development of a landfill expansion at, within or adjacent to the site that was the subject of the Siting Application", and is not limited to the landfill expansion at issue in this appeal. Any theoretical communications relating to any other theoretical landfill expansion are beyond the scope of this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

- 14. Identify any and all Communications during the Relevant Time, concerning or relating to the operational history of the existing landfill at the site that is the subject of the Siting Application between any of the individuals identified in each line below (e.g. item b below, seeks identification of communications between any Person included in the definition of "County" and any person included in the definition of "County Board"):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board (including, but not

- limited to those Persons identified in subparagraphs i through s, below);
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
  - g. WMII and the County;
  - h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
  - i. WMII and the Kankakee County Board Chairman;
  - j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
  - k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
  - l. Dale Hoekstra and Karl Kruse;
  - m. Lee Addleman and Karl Kruse;
  - n. Dale Hoekstra and Pam Lee;
  - o. Lee Addleman and Pam Lee;
  - p. Dale Hoekstra and Mike Quigley;
  - q. Lee Addleman and Mike Quigley;
  - r. Dale Hoekstra and George Washington, Jr.;
  - s. Lee Addleman and George Washington, Jr.;
  - t. Any one or more of the attorneys at Swanson, Martin & Bell and any one or

more of the attorneys at Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the operational history of the existing landfill at the site." The interrogatory appears to seek information relating to alleged prejudgment of adjudicative facts or fundamental fairness. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." *Land and Lakes Co. V. VILLAGE of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). To the extent this interrogatory seeks information relating to any of the siting criteria, no evidence outside the County's record is allowable. The Pollution Control Board's review of manifest weight is limited to the evidence before the local decisionmaker. (415 ILCS 5/40.1(b).) Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

24. Identify any and all Communications by the County Board (or any of its individual members) and any of the following Persons, concerning or relating to the decision of the Kankakee County Board to approve, with or subject to conditions, the Facility:
- a. The County (including, but not limited to its staff, employees, consultants, and/or attorneys, no matter if employed by or contracted with the County);
  - b. The County Regional Planning & Development [sic] Commission;
  - c. Mike Quigley (during the time he was not a County Board Member);
  - d. Attorneys from the firms [sic] of Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of

relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the decision of the Kankakee County Board to approve, with or subject to conditions, the Facility." The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." See, e.g., *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

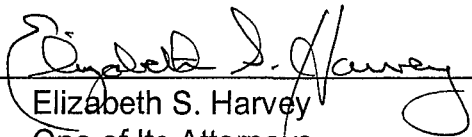
25. Identify any and all Communications between the County Board (or any of its Members) and any of the following Persons: concerning or relating to the document entitled *Summary Report of the Proposed Expansion of the Kankakee Recycling and Disposal Facility*, prepared by the Kankakee County Staff, and dated January 6, 2003 (or any of the drafts of that document) or the information contained in that document or its drafts:
- a. The County (including, but not limited to its staff, employees, consultants, and/or attorneys, no matter if employed by or contracted with the County);
  - b. The County Regional Planning & Development [sic] Commission;
  - c. Mike Quigley (during the time he was not a County Board Member);
  - d. Attorneys from the firms [sic] of Hinshaw & Culbertson.

OBJECTION: The County objects to this interrogatory as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited

only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to the County staff report, duly filed as a public comment in the local proceeding. The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." See, e.g., *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

Respectfully submitted,

COUNTY OF KANKAKEE and  
COUNTY BOARD OF KANKAKEE

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One of Its Attorneys

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## ILLINOIS POLLUTION CONTROL BOARD

APR 10 2003

CITY OF KANKAKEE,

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Petitioner,

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v.

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COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC.

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Respondents.

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PCB 03-125

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PCB 03-135

PCB 03-144 (consolidated)

(Pollution Control Facility Siting Appeals)

STATE OF ILLINOIS  
*Pollution Control Board***COUNTY BOARD OF KANKAKEE'S OBJECTIONS TO  
PETITIONER WATSON'S DOCUMENT REQUESTS**

Respondent COUNTY BOARD OF KANKAKEE ("County"), by its attorneys Hinshaw & Culbertson and Swanson, Martin & Bell, hereby object to some of the document requests filed by petitioner MICHAEL WATSON ("Watson").<sup>1</sup> These objections are directed to the hearing officer.

**Definitions**

The County objects to the definition of "relevant time period," which Watson states as "the period between August 1, 2001 and February 28, 2003." This time period is overly broad. Events outside the time period from August 16, 2002 (the date of filing of the siting application) to January 31, 2003 (the date of the County Board's decision on the siting application) are irrelevant to this appeal. 415 ILCS 5/40.1. This objection applies to each

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<sup>1</sup> Pursuant to the hearing officer's direction, the County files these objections by noon on April 10, 2003. Responses to requests which are not objected to in this filing will be filed no later than noon on April 18, 2003, pursuant to the discovery schedule in this matter.

and every one of the requests propounded by Watson, regardless of whether that request is specifically listed in the following objections.

**Document Requests**

5. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the Record on Appeal, concerning or relating to the Siting Application or any of its component parts:
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);
  - f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
  - g. WMII and the County;
  - h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
  - i. WMII and the Kankakee County Board Chairman;
  - j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;

- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.

OBJECTION: The County objects to this request as vague, overbroad, irrelevant, not reasonably calculated to lead to relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to the Siting Application. The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." See, e.g., *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

- 4. Any and all documents created by the County during the Relevant Time related to the Siting Application or a landfill expansion at the site proposed in the Siting

Application, whether or not such documents were provided to anyone, excluding documents included in the Record on Appeal.

OBJECTION: The County incorporates its objection to Request Number 3 as if that objection were fully set forth herein. Additionally, the County objects to Request Number 4 on the grounds that, in seeking documents relating to a theoretical expansion at the site, which is not the expansion proposed in the Siting Application, the Request exceeds the permissible scope of discovery. The only relevant matter is the Siting Application which was filed by WMII on August 16, 2002, and ruled upon by the County Board on January 31, 2003.

5. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the Record on Appeal, concerning or related to Resolution 01-10-09-393 (purporting to amend Kankakee County's Solid Waste Management Plan):
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board;
  - f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
  - g. WMII and the County;
  - h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;

- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on the Siting Application.

OBJECTION: The County objects to this Request in its entirety. Resolution 01-10-09-393, adopted on or about October 9, 2001, amends the County's solid waste management plan. Information regarding the solid waste management plan, including its adoption and amendments to the plan, is not relevant to this appeal, is not reasonably calculated to lead to the discovery of relevant information, is improper, and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption and amendment of solid waste management plans: "allegations concerning the adoption of the county's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal." *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). ("Section 40.1 does not authorize the Board to review the process involved in the County's amendment of the Plan.") Further, any involvement by the County with the applicant in the amendment of a plan does not create a suspicion of bias by the County during the Siting Process. *Residents Against a Polluted Environment*. 687 N.E.2d at 555. Additionally, the solid waste management plan, and resolutions amending that plan, were adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

- 6. Any and all documents created by the County during the Relevant Time related to

the Resolution 01-10-09-393, whether or not such documents were provided to anyone, excluding documents in the Record on Appeal.

OBJECTION: The County incorporates its objection to Request Number 5 as if that objection were fully set forth herein.

7. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the Record on Appeal, concerning or related to Resolution 02-03-12-481 (purporting to amend Kankakee County's Solid Waste Management Plan):
- a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board;
  - f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
  - g. WMII and the County;
  - h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
  - i. WMII and the Kankakee County Board Chairman;
  - j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of

WMII or its Siting Application;

- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on the Siting Application.

OBJECTION: The County incorporates its objection to Request Number 5 as if fully set forth herein. Resolution 02-03-12-481 also relates to the amendment of the solid waste management plan. Thus, the objection raised to Request Number 5 is equally applicable to Request Number 7.

- 8. Any and all documents created by the County during the Relevant Time related to the Resolution 02-03-12-481, whether or not such documents were provided to anyone, excluding documents in the Record on Appeal.

OBJECTION: The County incorporates its objection to Request Number 7 as if that objection were fully set forth herein.

- 9. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the record on appeal, concerning or related to the Host Agreement and/or any of its component parts or exhibits:
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);

- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.

OBJECTION: The County objects to this Request in its entirety. Information regarding the Host Agreement is not relevant to this appeal, and is not reasonably calculated to lead to the discovery of relevant information.



It is well settled that the drafting and adoption of a host agreement is a legislative function which is not an indication of prejudgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Host Agreement was negotiated and adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

10. Any and all documents created by the County during the Relevant Time related to the Host Agreement (including but not limited to the Exhibits to the Host Agreement), whether or not such documents were provided to anyone, excluding documents included in the Record on Appeal.

OBJECTION: The County incorporates its objection to Request Number 9 as if set forth in its entirety.

11. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the record on appeal, concerning or relating to the development, design, operation, or location of a landfill expansion by WMII in Kankakee County:
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;
  - e. WMII and any one or more member of the County Board (including, but not

limited to those Persons identified in subparagraphs i through s, below);

- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.

OBJECTION: The County objects to this request as vague, overbroad, irrelevant,

and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the development, design, operation, or location of a landfill expansion by WMII in Kankakee County, and is not limited to the landfill expansion at issue in this appeal. Any theoretical documents relating to any other theoretical landfill expansion are beyond the scope of this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

12. Any and all documents created by the County during the relevant time related to the development, design, operation or location of a landfill expansion by WMII in Kankakee County, whether or not such documents were provided to anyone, excluding documents included in the Record on Appeal.

OBJECTION: The County incorporates its objection to Request Number 11 as if that objection were fully set forth herein.

13. Any and all documents between or provided to/from any of the following Persons, other than those documents which are included in the Record on Appeal, concerning or relating to the development of a landfill expansion at, within, or adjacent to the site that was the subject of the Siting Application:
  - a. The staff or employees of Kankakee County and its consultants or attorneys;
  - b. The County and any one or more members of the County Board;
  - c. The County and any one or more members of the County Regional Planning and Development [sic] Commission;
  - d. The County and WMII;

- e. WMII and any one or more member of the County Board (including, but not limited to those Persons identified in subparagraphs i through s, below);
- f. WMII and any one or more member of the County Regional Planning & Development [sic] Commission;
- g. WMII and the County;
- h. WMII and attorneys from the firms of Hinshaw & Culbertson and/or Swanson, Martin & Bell;
- i. WMII and the Kankakee County Board Chairman;
- j. A member of the general public and any member of the County Board, when the member of the general public was speaking in support of or in favor of WMII or its Siting Application;
- k. WMII and any Kankakee County Board Members who were Board Members during any part of the Relevant Time, but who did not vote on or were not County Board Members at the time of the vote on the Siting Application;
- l. Dale Hoekstra and Karl Kruse;
- m. Lee Addleman and Karl Kruse;
- n. Dale Hoekstra and Pam Lee;
- o. Lee Addleman and Pam Lee;
- p. Dale Hoekstra and Mike Quigley;
- q. Lee Addleman and Mike Quigley;
- r. Dale Hoekstra and George Washington, Jr.;
- s. Lee Addleman and George Washington, Jr.

OBJECTION: The County objects to this request as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the development of a landfill expansion at, within or adjacent to the site that was the subject of the Siting Application," and is not limited to the landfill expansion at issue in this appeal. Any theoretical documents relating to any other theoretical landfill expansion are beyond the scope of this appeal. Third, to the extent this request seeks documents regarding the expansion at issue in this appeal, the scope of the Board's review is limited to documents in the County's record. 415 ILCS 5/40.1(b). Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

14. A copy of the cellular or mobile phone invoices, itemized to show phone calls made and/or received, from Karl Kruse, Kankakee County Board Chairman, for the time period from August 16, 2002 to February 28, 2003.

OBJECTION: The County objects to this request as overbroad, irrelevant, not reasonably calculated to lead to the discovery of relevant evidence, and beyond the permissible scope of discovery. First, as noted in the County's objection above, the time period is overbroad, and should be limited to the period ending January 31, 2003. Second, the request appears to seek information relating to alleged fundamental fairness issues. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Third, the request is overbroad, in that Mr. Kruse cellular phone invoices almost certainly include calls unrelated to this appeal, and unrelated to his position as Kankakee County Board Chairman. Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

15. A copy of the cellular or mobile phone invoices or itemization of phone calls made and/or received to or from Karl Kruse, on the or any [sic] mobile or cellular phone used by Mr. Kruse on January 31, 2003.

OBJECTION: The County incorporates its objection to Request Number 14 as if that objection were fully set forth herein.

16. Any and all documents showing, in an itemized manner, the phone calls made or received from the following Persons' County phone and any phone that they use for County business, for the time period from August 16, 2002 to February 28, 2003:
- a. Karl Kruse, Kankakee County Board Chairman;
  - b. George Washington, Jr., County Board Member;
  - c. Pam Lee, County Board Member; and
  - d. Mike Quigley, during that portion of the time frame outlined in this Interrogatory [sic] during which he was a County Board Member.

OBJECTION: The County objects to this request as overbroad, irrelevant, not reasonably calculated to lead to the discovery of relevant evidence, and beyond the permissible scope of discovery. First, as noted in the County's objection above, the time period is overbroad, and should be limited to the period ending January 31, 2003. Second, the request appears to seek information relating to alleged fundamental fairness issues. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCN 89-138, slip op. at 7 (October 27, 1989). Third, the request is overbroad, in that the documents almost certainly include calls unrelated to this appeal, and unrelated to the members' positions as Kankakee County Board Members. Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

17. Any and all documents concerning or relating to or evidencing communications between any of the following Persons, or documents which were created by one of the following Persons and delivered to or seen by another one of the following Persons, concerning Kankakee County's decision to identify only one landfill location, specifically, and/or one landfill operator, specifically, in its Solid Waste Management Plan, as amended. This Request is not intended to seek documents concerning or relating to or evidencing communications solely between County Board Members, during periods of time in which they were County Board Members.
- a. WMII;
  - b. Any one or more of the County Board Members;
  - c. Any one or more employee, representative, agent or attorney for the County;
  - d. Any one or more members of the County Regional Planning & Development [sic] Commission.

OBJECTION: The County objects to this Request in its entirety. Information regarding the solid waste management plan, including its adoption and amendments to the plan, is not relevant to this appeal, is not reasonably calculated to lead to the discovery of relevant information, is improper, and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption and amendment of solid waste management plans: "allegations concerning the adoption of the county's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal." *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). ("Section 40.1 does not authorize the Board to review the process involved in the County's amendment of the Plan.") Further, any involvement by the County

with the applicant in the amendment of the Plan does not create a suspicion of bias by the County in the siting process. *Residents Against a Polluted Environment*, 687 N.E.2d at 555. Additionally, the solid waste management plan, and resolutions amending that plan, were adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

18. A certified copy of Resolution 01-10-09-393.

OBJECTION: The County objects to this Request in its entirety. Information regarding the solid waste management plan, including its adoption and amendments to the plan, is not relevant to this appeal, is not reasonably calculated to lead to the discovery of relevant information, is improper, and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption and amendment of solid waste management plans: "allegations concerning the adoption of the county's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal." *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). ("Section 40.1 does not authorize the Board to review the process involved in the County's amendment of the Plan.") Further, any involvement by the County with the applicant in the amendment of the Plan does not create a suspicion of bias by the County in the siting process. *Residents Against a Polluted Environment*, 687 N.E.2d at 555. Additionally, Resolutions 01-10-09-393 and 02-03-12-481, amending that plan, were adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal.

19. A certified copy of Resolution 02-03-12-481.

OBJECTION: The County incorporates its objection to Request Number 18 as if fully set forth herein.

21. A certified copy of the Committee Meeting and County Board Meeting minutes and audio tape(s) for those meetings at which there were any discussions concerning



Resolution 01-10-09-393 and/or Resolution 02-02-12-481.

OBJECTION: The County incorporates its objection to Request Number 18 as if fully set forth herein.

22. A certified copy of the Committee Meeting and County Board Meeting minutes and audio tape(s), for those meetings at which there were any discussions concerning the Host Agreement.

OBJECTION: The County incorporates its objection to Request Number 9 as if fully set forth herein.

23. A certified copy of the Committee Meeting and County Board Meeting minutes and audio tape(s), for those meetings at which a potential or landfill [sic] expansion by WMII was discussed, other than the January 31, 2003 County Board Meeting.

OBJECTION: The County incorporates its objections to Requests Numbers 11 and 13, as if those objections were fully set forth herein.

25. All invoices or itemizations of time from Hinshaw & Culbertson for services provided to the County and/or County Board.

OBJECTION: The County objects to this request as overbroad, irrelevant, not reasonably calculated to lead to the discovery of relevant evidence, and beyond the permissible scope of discovery. First, as noted in the County's objection above, the time period is overbroad, and should be limited to the period ending January 31, 2003. Second, the request appears to seek information relating to alleged fundamental fairness issues. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition". *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCN 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

26. Any and all documents between, provided to, or received by the County Board (or

any of its Members) and any of the following Persons, other than those documents which are included in the Record on Appeal, concerning or relating to the decision of the Kankakee County Board to approve, with or subject to conditions, the Facility:

- a. The County (including, but not limited to its staff, employees, consultants, and/or attorneys, no matter if employed by or contracted with the County);
- b. The County Regional Planning & Development [sic] Commission;
- c. Mike Quigley (during the time he was not a County Board Member);
- d. Attorneys from the firms [sic] of Hinshaw & Culbertson; and
- e. WMII or any of its affiliates or parents or their employees, officers, agents, or representatives.

OBJECTION: The County objects to this request as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to "the decision of the Kankakee County Board to approve, with or subject to conditions, the Facility." The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition". See, e.g., *Land and Lakes Co. V. VILLAGE of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

- 27. Any and all documents between, provided to, or received by the County Board (or any of its Members) and any of the following Persons, other than those documents

which are included in the Record on Appeal, concerning or relating to the document entitled *Summary Report of the Proposed Expansion of the Kankakee Recycling and Disposal Facility*, prepared by the Kankakee County Staff, and dated January 6, 2003 (or any of the drafts of that document) or the information contained in that document or its drafts:

- a. The County (including, but not limited to its staff, employees, consultants, and/or attorneys, no matter if employed by or contracted with the County);
- b. The County Regional Planning & Development [sic] Commission;
- c. Mike Quigley (during the time he was not a County Board Member);
- d. Attorneys from the firms [sic] of Hinshaw & Culbertson; and
- e. WMII or any of its affiliates or parents or their employees, officers, agents or representatives.

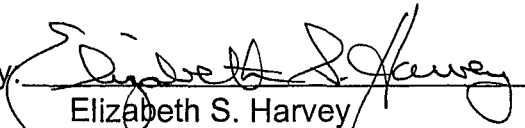
**OBJECTION:** The County objects to this request as vague, overbroad, irrelevant, and not reasonably calculated to lead to the discovery of relevant evidence. First, as noted in the County's objection above, the definition of "Relevant Time" is overbroad, and should be limited only to the period between August 16, 2002 and January 31, 2003. Second, the request seeks communications relating to the County staff report, duly filed as a public comment in the local proceeding. The interrogatory appears to seek information relating to alleged fundamental fairness claims. However, before such requests are made, petitioner must allege specific instances or evidence of fundamental unfairness: petitioner may not engage in a "fishing expedition." See, e.g., *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Finally, the County objects to this request to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

28. All invoices or itemizations of time from Swanson, Martin & Bell for services provided to the County and/or County Board during the Relevant Time.

OBJECTION: The County incorporates its objection to Request Number 25 as if that objection were fully set forth herein.

Respectfully submitted,

COUNTY OF KANKAKEE and  
COUNTY BOARD OF KANKAKEE

By   
Elizabeth S. Harvey  
One of Its Attorneys

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APR 10 2003

STATE OF ILLINOIS  
Pollution Control Board

## ILLINOIS POLLUTION CONTROL BOARD

CITY OF KANKAKEE,	)	
	)	PCB 03-125
Petitioner,	)	PCB 03-133
	)	PCB 03-134
v.	)	PCB 03-135
	)	PCB 03-144 (consolidated)
COUNTY OF KANKAKEE, COUNTY	)	(Pollution Control Facility Siting Appeals)
BOARD OF KANKAKEE, and WASTE	)	
MANAGEMENT OF ILLINOIS, INC.	)	
	)	
Respondents.	)	

**COUNTY'S 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 duces tecum served by petitioner MICHAEL WATSON ("Watson") on Kankakee County.

1. On April 7, 2003, counsel for the County received a copy of a subpoena duces tecum purportedly served upon "Kankakee County, Illinois, c/o Mr. Bruce Clark, Kankakee County Clerk." The subpoena duces tecum seeks the production of all documents "responsive to the Interrogatories and Document Production Requests attached, which are or will not be [sic] produced by the Kankakee County Board in response to the attached discovery requests."
2. 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. The County moves to quash the subpoena on three grounds.

3. First, it is inappropriate for Watson, a party to the appeal, to attempt to subpoena documents from the County, another party to the appeal. Since both entities are parties to the appeal, Watson has the ability to seek discoverable information through the use of interrogatories and document requests. Indeed, Watson has utilized that ability, and has served interrogatories and document requests upon the County. Watson should be barred from seeking the same information via subpoena as he already seeks through discovery.
4. Second, the subpoena duces tecum seeks documents which are responsive to the document requests, but "will not be produced." Thus, Watson seeks to obtain, through the subpoena, information which he cannot obtain through proper discovery. For example, some of the documents he seeks may be privileged, irrelevant, or otherwise protected from production. (As the hearing officer and the parties are aware, the County has filed objections to some of Watson's discovery requests.) A subpoena cannot be used to obtain documents which cannot be obtained through discovery, when both entities are parties to the appeal. To rule otherwise would allow Watson to circumvent the protections given to an entity responding to discovery.
5. Third, to the extent that the subpoena seeks documents which the County will produce in response to Watson's discovery requests, the subpoena is duplicative and burdensome. There is no reason for the County to produce the same documents twice. Production of the same documents twice would be inefficient and unduly burdensome, and without reason.

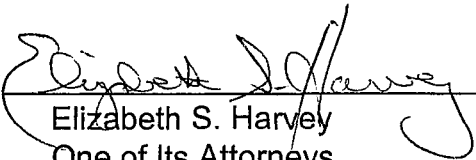
6. Finally, if Watson somehow believes that he is seeking information from two different bodies (the County Board of Kankakee, as named in Watson's petition for review, and "Kankakee County," as named in the subpoena duces tecum), he is mistaken. Watson has provided no authority for a proposition that the two bodies are separate, from a legal perspective, in terms of their status as parties to this appeal, or in terms of the documents and information in their possession. Additionally, as a practical matter, Watson has defined his interrogatories and document requests broadly to include all information in the possession of "County of Kankakee and its agents, employees, attorneys, and all persons or entities who have acted or purported to act on its behalf". Thus, Watson's interrogatories and document requests---the proper mechanism for Watson to seek the desired information---already seek information from the County as a whole, and are not limited to the County Board. Any purported distinction between the County and the County Board does not provide a basis for Watson's subpoena duces tecum.
7. In sum, the County moves that the hearing officer quash the entire subpoena duces tecum as inappropriate between parties to the appeal. Alternatively, the County moves that the hearing officer quash the portion of the subpoena which seeks documents which "will not be produced" as an inappropriate attempt to circumvent the discovery process and protections. The County further moves that the portion of the subpoena which seeks documents which will be produced as unreasonable, inefficient, and unduly burdensome.

WHEREFORE, the County moves that the hearing officer quash the subpoena

duces tecum served by Watson on the County, 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

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ILLINOIS POLLUTION CONTROL BOARD

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APR 10 2003

STATE OF ILLINOIS  
Pollution Control Board

THE CITY OF KANKAKEE, an Illinois  
Municipal Corporation,

Plaintiff,

vs.

COUNTY OF KANKAKEE, a body politic and )  
corporate; KANKAKEE COUNTY BOARD; )  
and WASTE MANAGEMENT OF ILLINOIS, )  
INC., )

Defendants. )

Case No. PCB 03-125

**DEFENDANTS' ANSWERS TO CITY OF  
KANKAKEE'S INTERROGATORIES**

NOW COME the Defendants, COUNTY OF KANKAKEE, a body politic and corporate and KANKAKEE COUNTY BOARD, by and through their attorneys, HINSHAW & CULBERTSON, and for their Answers to CITY OF KANKAKEE'S INTERROGATORIES, states as follows:

**INTERROGATORY NO. 1:** Identify all persons who provided information regarding or assisted in answer these Interrogatories.

**ANSWER:** Every County Board Member, Michael Van Mill, on behalf of County Staff, Kankakee County State's Attorney Edward Smith, Special Assistant State's Attorneys Charles Helsten and Richard Porter.

**INTERROGATORY NO. 2:** Please identify all persons of WMII who met, talked, or communicated with the County of Kankakee, County of Kankakee department heads, professional and technical staff, County employees, and its attorneys, including Edward D. Smith and his assistants in the office of the Kankakee County State's Attorney's Office, prior to the

filing of the landfill Siting Application on August 16, 2002 relating to the planning, development and siting of the Facility, and for each such individual, please:

- (a) identify the individual by name and title and identify what type of communication took place (written, oral, telephone, e-mail, etc.);
- (b) the subject matter of each such communication;
- (c) describe and delineate the exact statements made during the course of each such communication;
- (d) identify date, time and duration of each such communication;
- (e) identify the location of each such communication; and
- (f) identify all persons present at such communication.

**ANSWER:** The County objects to this Interrogatory in its entirety as it seeks information that is irrelevant, inadmissible and not likely to lead to admissible evidence. This interrogatory appears to seek information concerning communications, however, before such requests can be made, a petitioner must allege specific instances or evidence of fundamental unfairness and may not engage in a "fishing expedition". *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). To the extent this interrogatory seeks information concerning the planning of solid waste management by the County including adoption of Solid Waste Management Plans, said information is irrelevant, not likely to lead to admissible evidence and beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption and amendment of solid waste management plans: "allegations concerning the adoption of the county's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal." *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the solid waste management plan, and resolutions amending that plan were adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal.

Furthermore, information regarding the Host Agreement is not relevant to this appeal, and is not reasonably calculated to lead to the discovery of relevant information. It is well settled that the drafting and adoption of a host agreement is a legislative function which is not an indication of prejudgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Host Agreement was negotiated and adopted prior to the August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal. Finally, the County objects to this Interrogatory to the extent it seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

Subject to said objection, and without waiving same, on November 30, 2001, Christopher Bolin, on behalf of the City of Kankakee, John Kennedy, on behalf of Town & Country, Inc., and Dennis Wilt on behalf of Waste Management of Illinois, met with Kankakee County State's Attorney Edward Smith, at which time Town & Country threatened to sue the County of Kankakee for alleged anti-trust violations. No such suit was ever filed and because the City was present, the discussion will not be described in further detail.

Several Board members and department heads participated in Host Agreement negotiations and/or attended bus tours of the Settlers Hill and Kankakee County facilities prior to August 16, 2002. The County of Kankakee is aware that representatives of Waste Management of Illinois have attended public Kankakee County Board meetings prior to the filing of the Application. The County does not recall any specifics of any public statements made by Waste Management of Illinois at these meetings, however, the minutes of all County Board meetings are public record. There are communications from WMII written to the County re: proposed amendments to the Solid Waste Management Plan.

Prior to the filing of the Waste Management Application, communications did take place with the Special Assistant State's Attorneys and Waste Management of Illinois, all of which are identified in the invoices of Hinshaw & Culbertson, which are part of the Kankakee County record. Investigation continues.

**INTERROGATORY NO. 3:** Please identify all persons of WMII who met, talked, or communicated with any members of the Kankakee County Board and/or County of Kankakee prior to the filing of the Landfill Siting Application on August 16, 2002 relating to the planning, development and siting of the Facility, and for each such individual, please:

- (a) identify the individual by name and title and identify what type of communication took place (written, oral, telephone, e-mail, etc.);
- (b) the subject matter of each such communication;
- (c) describe and delineate the exact statements made during the course of each such communication;
- (d) identify date, time and duration of each such communication;
- (e) identify the location of each such communication; and
- (f) identify all persons present at such communication.

**ANSWER:** See Objection and Answer to Interrogatory No. 2

**INTERROGATORY NO. 4:** Identify all persons of WMII who met, talked, or otherwise communicated with the County of Kankakee and/or the Kankakee County Board after the filing of the Landfill Siting Application on August 16, 2002, relating to the planning, development and siting of a solid waste management facility, and for each such individual, please:

- (a) identify the individual by name and title and identify what type of communication took place (written, oral, telephone, e-mail, etc.);
- (b) the subject matter of each such communication;
- (c) describe and delineate the exact statements made during the course of each such communication;
- (d) identify date, time and duration of each such communication;
- (e) identify the location of each such communication; and
- (f) identify all persons present at such communication.

**ANSWER:** Objection to the extent this Interrogatory seeks irrelevant communications between Waste Management of Illinois, Inc. and the County of Kankakee

and its attorneys regarding Landfill Applications other than Waste Management of Illinois, Inc.'s Application to expand its existing facility and to the extent it seeks information after the decision date of January 31, 2003. To the extent said Interrogatory is limited to communications between Waste Management of Illinois, Inc. and the County after August 16, 2002, and prior to the decision date; none other than the communications held on the public record, and possibly procedural non-substantive communications between Special State's Attorneys of Kankakee County and the attorneys of Waste Management of Illinois, which would be reflected in the invoices of Hinshaw & Culbertson, which are part of the public record, if any.

**INTERROGATORY NO. 5:** Identify all County of Kankakee and Kankakee

County Board officials or personnel that had any involvement in, made any recommendations, or made any decisions regarding the January 31, 2003, decision granting approval of WMII's Landfill Siting Application, and for each such individual, please:

- (a) identify the individual by name and title and identify what type of communication took place (written, oral, telephone, e-mail, etc.);
- (b) describe the nature and extent of the persons' involvement;
- (c) identify all documents reviewed by such person regarding the January 31, 2003, decision granting approval of the Landfill Siting Application;
- (d) identify all documents generated by such personnel having involvement in, making recommendations or decision regarding the January 31, 2003, decision granting approval of the Landfill Siting Application.

**ANSWER:** Objection, said Interrogatory is vague, overbroad and over-burdensome, and involves the attorney-client privilege and work product doctrine. Furthermore, said interrogatory improperly invades upon the mental processes of the County Board. See *City of Rockford v. Winnebago County Board*, PCB 88-107 (November 17, 1988); *St. Charles v. Kane County*, 1984 WL 37700, PCB 83-228, 229, 230 (May 18, 1984), *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25 (June 4, 1992); *Village of Lagrange v. McCook Cogeneration Station*, 1995 WL 747729, PCB 96-41 (Dec. 7, 1995). Subject to said objection, and without waiving same, each and every individual who testified, presented evidence, made public

comment, assisted in the preparation of evidence, or otherwise participated in the Section 39.2 hearing had some "involvement" in the County's decision in that the County considered such evidence.

**INTERROGATORY NO. 6:** Identify all Kankakee County Board members who met, talked, or otherwise communicated with County of Kankakee department heads, supervisors, staff, employees or consultants before or after the filing of the Landfill Siting Application on August 16, 2002, relating to the planning, development and siting of the Facility and for each such individual, please:

- (a) identify the individual by name and title and identify what type of communication took place (written, oral, telephone, e-mail, etc.);
- (b) the subject matter of each such communication;
- (c) describe and delineate the exact statements made during the course of each such communication;
- (d) identify date, time and duration of each such communication;
- (e) identify the location of each such communication; and
- (f) identify all persons present at such communication.

**ANSWER:** Objection, to the extent said interrogatory seeks information after the decision date of January 31, 2003, said interrogatory seeks irrelevant and inadmissible evidence and is not likely to lead to admissible evidence. Furthermore, said Interrogatory infringes upon the attorney/client privilege and seeks to discover information concerning the mental processes of County Board members, which is irrelevant, inadmissible and not likely to lead to admissible evidence. See *City of Rockford v. Winnebago County Board*, PCB 88-107 (November 17, 1988); *St. Charles v. Kane County*, 1984 WC 37700, PCB 83-228, 229, 230 (May 18, 1984), *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25 (June 4, 1992), *Village of Lagrange v. McCook Cogeneration Station*, 1995 WC 747729, PCB 96-41 (Dec. 7, 1995). Subject to said objection a recommendation was drafted by County staff and reviewed by the County Board, which is part of the record.

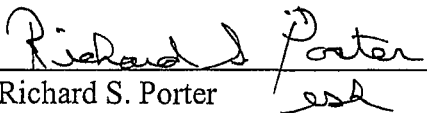
**INTERROGATORY NO. 7:** Please identify each witness you expect to present to testify at hearing, and state the subject of each witness's testimony and identify any documents any witness will utilize in his or her testimony.

**ANSWER:** None, except Kankakee County reserves its right to present rebuttal witnesses. Investigation continues.

Respectfully Submitted,

On behalf of the COUNTY OF KANKAKEE  
and KANKAKEE COUNTY BOARD,

By: Hinshaw & Culbertson

  
Richard S. Porter  
One of Their Attorneys

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ILLINOIS POLLUTION CONTROL BOARD

CITY OF KANKAKEE,

Petitioner,

vs.

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC.

Respondents.

MERLIN KARLOCK,

Petitioner,

vs.

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC.

Respondents.

MICHAEL WATSON,

Petitioner,

vs.

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC.

Respondents.

KEITH RUNYON,

Petitioner,

vs.

COUNTY OF KANKAKEE, COUNTY  
BOARD OF KANKAKEE, and WASTE  
MANAGEMENT OF ILLINOIS, INC.

Respondents.

PCB 03-125

(Third-Party Pollution Control Facility

Siting Appeal)

STATE OF ILLINOIS  
*Pollution Control Board*

PCB 03-133

(Third-Party Pollution Control Facility

Siting Appeal)

PCB 03-134

(Third-Party Pollution Control Facility

Siting Appeal)

PCB 03-135

(Third-Party Pollution Control Facility

Siting Appeal)



## RESPONSE TO CITY OF KANKAKEE'S DOCUMENT REQUESTS

NOW COME Respondents, COUNTY OF KANKAKEE and KANKAKEE COUNTY BOARD, by and through their attorneys, HINSHAW & CULBERTSON, and in response to the City of Kankakee's Document Requests, state as follows:

1. Objection, this is an improper invasion of the mental processes of decision makers to inquire as to the specific documents read or reviewed by them in consideration of their siting applications. See *City of Rockford v. Winnebago County Board*, PCB 88-107 (November 17, 1988); *St. Charles v. Kane County*, 1984 WL 37700, PCB 83-228, 229, 230 (May 18, 1984), *Land and Lakes Co. v. Village of Romeoville*, PCB 92-25 (June 4, 1992); *Village of Lagrange v. McCook Cogeneration Station*, 1995 WL 747729, PCB 96-41 (Dec. 7, 1995). Subject to said objection the only documents which were available to the decision makers and which were relied upon and reviewed by the decision makers in coming to their decision, are contained within the public record.

2. Objection, this request is overbroad, overburdensome, irrelevant, and not reasonably likely to lead to relevant admissible evidence. This production request appears to relate to communications concerning the siting application and before such a request may be made, a petitioner must allege specific instances or evidence of fundamental unfairness and may not engage in a mere fishing expedition in an attempt to find alleged improper ex-parte communications. See *Land and Lakes Company v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Furthermore, to the extent that this production request seeks information regarding the host agreement it is not relevant to this appeal and not reasonably calculated to lead to relevant and admissible information. The drafting and adoption of a host agreement is a legislative function which is not an indication of pre-judgment or bias. *Residents*

*Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd. Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Furthermore, to the extent that this interrogatory seeks information concerning the solid waste management planning of the County of Kankakee and specifically the adoption of the Kankakee County Solid Waste Management Plans and amendments thereto, said information is not relevant nor admissible in this appeal and is not reasonably calculated to lead to the discovery of relevant and admissible information and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption of the amendment of solid waste management plans: "allegations concerning the adoption and amendment of the County's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996). *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Solid Waste Management Plan and resolutions amending that plan, were adopted prior to August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal and not likely lead to admissible evidence. Finally, to the extent this request seeks information after January 31, 2003, such is irrelevant, inadmissible and not subject to discovery. Subject to this objection, and without waiving same. There are no such documents for the relevant period of August 16, 1992 until the time of rendering the decision on January 31, 2003, other than the documents contained in the public record.

3. Objection, this request is overbroad, overburdensome, irrelevant, and not reasonably likely to lead to relevant admissible evidence. This production request appears to relate to communications concerning the siting application and before such a request may be made, a petitioner must allege specific instances or evidence of fundamental unfairness and may

not engage in a mere fishing expedition in an attempt to find alleged improper ex-parte communications. See *Land and Lakes Company v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Furthermore, to the extent that this production request seeks information regarding the host agreement it is not relevant to this appeal and not reasonably calculated to lead to relevant and admissible information. The drafting and adoption of a host agreement is a legislative function which is not an indication of pre-judgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd*. *Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Furthermore, to the extent that this interrogatory seeks information concerning the solid waste management planning of the County of Kankakee and specifically the adoption of the Kankakee County Solid Waste Management Plans and amendments thereto, said information is not relevant nor admissible in this appeal and is not reasonably calculated to lead to the discovery of relevant and admissible information and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption of the amendment of solid waste management plans: "allegations concerning the adoption and amendment of the County's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996). *aff'd* *Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Solid Waste Management Plan and resolutions amending that plan, were adopted prior to August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal and not likely lead to admissible evidence. Finally, to the extent this request seeks information after January 31, 2003, such is irrelevant, inadmissible and not subject to discovery. Subject to said

objection, there were no phone calls or meetings between Waste Management of Illinois and the County of Kankakee, the Kankakee County Board, or their agents after the filing of the application on August 16, 2002, and prior to the County Board decision on January 31, 2003 relating to the planning, development, and siting of the facility and hence, there are no documents concerning the relevant time period.

4. Objection, this request is overbroad, overburdensome, irrelevant, and not reasonably likely to lead to relevant admissible evidence. This production request appears to relate to communications concerning the siting application and before such a request may be made, a petitioner must allege specific instances or evidence of fundamental unfairness and may not engage in a mere fishing expedition in an attempt to find alleged improper ex-parte communications. See *Land and Lakes Company v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Furthermore, to the extent that this production request seeks information regarding the host agreement it is not relevant to this appeal and not reasonably calculated to lead to relevant and admissible information. The drafting and adoption of a host agreement is a legislative function which is not an indication of pre-judgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd*. *Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Furthermore, to the extent that this interrogatory seeks information concerning the solid waste management planning of the County of Kankakee and specifically the adoption of the Kankakee County Solid Waste Management Plans and amendments thereto, said information is not relevant nor admissible in this appeal and is not reasonably calculated to lead to the discovery of relevant and admissible information and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption of the amendment of solid waste management plans: "allegations

concerning the adoption and amendment of the County's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996). *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Solid Waste Management Plan and resolutions amending that plan, were adopted prior to August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal and not likely lead to admissible evidence. Finally, to the extent this request seeks information after January 31, 2003, such is irrelevant, inadmissible and not subject to discovery. Subject to this objection, and without waiving same, the only documents which were relied upon by the decision makers in coming to their decision are contained within the public record.

5. Objection, this request is overbroad, overburdensome, irrelevant, and not reasonably likely to lead to relevant admissible evidence. This production request appears to relate to communications concerning the siting application and before such a request may be made, a petitioner must allege specific instances or evidence of fundamental unfairness and may not engage in a mere fishing expedition in an attempt to find alleged improper ex-parte communications. See *Land and Lakes Company v. Village of Romeoville*, PCB 92-25, slip op. at 4 (June 4, 1992); *DiMaggio v. Solid Waste Agency of Northern Cook County*, PCB 89-138, slip op. at 7 (October 27, 1989). Furthermore, to the extent that this production request seeks information regarding the host agreement it is not relevant to this appeal and not reasonably calculated to lead to relevant and admissible information. The drafting and adoption of a host agreement is a legislative function which is not an indication of pre-judgment or bias. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996), *aff'd. Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Furthermore, to the extent that this

interrogatory seeks information concerning the solid waste management planning of the County of Kankakee and specifically the adoption of the Kankakee County Solid Waste Management Plans and amendments thereto, said information is not relevant nor admissible in this appeal and is not reasonably calculated to lead to the discovery of relevant and admissible information and is beyond the scope of permissible discovery. The Pollution Control Board does not review the legislative process of adoption of the amendment of solid waste management plans: "allegations concerning the adoption and amendment of the County's solid waste management plan are not proper allegations for Board consideration in a Section 40.1 pollution control facility siting appeal. *Residents Against a Polluted Environment v. County of LaSalle*, PCB 96-243, slip op. at 15-16 (Sept. 9, 1996). *aff'd Residents Against a Polluted Environment v. Illinois Pollution Control Board*, 293 Ill.App.3d 219, 687 N.E.2d 552, 555 (3d Dist. 1997). Additionally, the Solid Waste Management Plan and resolutions amending that plan, were adopted prior to August 16, 2002 filing of the siting application, and thus that process is irrelevant to this appeal and not likely lead to admissible evidence. Finally, to the extent this request seeks information after January 31, 2003, such is irrelevant, inadmissible and not subject to discovery. Subject to this objection and without waiving same, none other than those contained in the public record.

6. None other than the exhibits contained within the public record, however, the County reserves its right to present rebuttal evidence and exhibits.

7. None other than the exhibits contained within the public record, however, the County reserves its right to present rebuttal evidence and exhibits.

8. None other than the exhibits contained within the public record, however, the County reserves its right to present rebuttal evidence and exhibits.

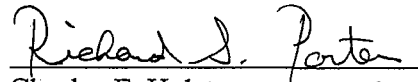
9. None other than the exhibits contained within the public record, however, the County reserves its right to present rebuttal evidence and exhibits.

10. Objection, said interrogatory is vague, overbroad and overburdensome.

Respectfully Submitted,

On behalf of the COUNTY OF KANKAKEE

By: Hinshaw & Culbertson



Charles F. Helsten

Richard S. Porter

One of Attorneys

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