

# HINSHAW & CULBERTSON

ATTORNEYS AT LAW

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STATE OF ILLINOIS  
~~Pollution Control Board~~

LOS ANGELES, CALIFORNIA  
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MILWAUKEE, WISCONSIN

FILE NO. 813053

WRITER'S DIRECT DIAL  
815-490-4920

ORIGINAL

April 10, 2003

Kenneth A. Leshen  
One Dearborn Square, Suite 550  
Kankakee, IL 60901

Re: City of Kankakee v. County of Kankakee

Dear Mr. Leshen:

Pursuant to our communications I have agreed to provide you with a log of the various documents for which we are asserting privileges and objections. The purpose behind this log is to allow the parties to understand that the County of Kankakee is in possession of no documents between August 16, 2002 and January 31, 2003, which are not part of the public record. The only exception to this statement is internal memoranda between members of County staff that were involved in drafting the proposed recommendation. These memoranda were in no way reviewed by the decision makers and, therefore, are irrelevant, inadmissible, and not likely to lead to admissible evidence. Please also be advised that though a document may appear under a specific heading below, which reflects a primary privilege or objection to producing said document, that document may also be protected from discovery or production on additional bases. For example, many of the documents for which there is an obvious attorney-client privilege are also protected because they were drafted prior to April 16, 2002.

### ATTORNEY CLIENT PRIVILEGED

November 2, 2001	Correspondence from State's Attorney Edward Smith to Assistant State's Attorney Brenda Gorski concerning search for special assistant state's attorney concerning solid waste issues.
November 9, 2001	Correspondence from Attorney Edward Smith to Chairman of the County Board, Douglas Graves, concerning host agreement.
November 19, 2001	Correspondence from Attorney Helsten to Efraim Gil and Brenda Gorski regarding special assistant state's attorney position.

Kenneth A. Leshen  
 April 10, 2003  
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March 4, 2002	Notes of Mike Van Mill concerning telephone call with Charles Helsten.
April 8, 2002	Correspondence from State's Attorney Edward Smith to Efraim Gil concerning procedures for consultant retention.
April 16, 2002	Correspondence from Assistant State's Attorney Brenda L. Gorski to Efraim Gil regarding consultant expert retention.
April 15, 2002	Correspondence from Efraim Gil to Attorney Edward Smith regarding consulting expert retention.
April 23, 2002	Correspondence from Charles Helsten to Brenda Gorski concerning expert witness retention.
December 12, 2002	Correspondence from Edward Smith to Bruce Clark regarding administrative rules relating to the record to be prepared for landfill siting process.
December 17, 2002	Correspondence from Attorney Elizabeth Harvey to Kankakee County Board and Regional Planning Commission members regarding procedure to be followed from close of hearing on December 6, 2002 until rendering decision.

#### DOCUMENTS CONCERNING NEGOTIATION OF HOST AGREEMENT

March 8, 2001 to January 16, 2002	File of documents in possession of Mike Van Mill concerning negotiation of host agreement.
October 23, 2001 to December 10, 2001	Documents from files of County Board member Pam Lee concerning host fee negotiations and agreements.

#### SOLID WASTE MANAGEMENT PLAN AMENDMENTS

2001 through March 11, 2002	Documents from files of Mike Van Mill concerning proposed solid waste plan amendments.
April 12, 2001 to March 1, 2002	Documents of Pam Lee concerning solid waste management plan amendments and host agreement negotiations.

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**DOCUMENTS PRE-DATING AUGUST 16, 2002**

October 30, 1997 through November 2001	Various documents, notes and records of Mike Van Mill, member of County staff.
October 2001	Lists of actual or possible attendees of landfill site bus tour.
Undated	Materials from Waste Management of Illinois concerning Settlers Hills Recycling Disposal Facility.
Undated	Document from Waste Management of Illinois concerning comprehensive Solid Waste Proposal.
November 13, 2001 through December 11, 2001	Public resolution appointing special committee to negotiate host fee agreement and minutes of meetings regarding same.
December 17, 2001	Correspondence from Dale Hoekstra of Waste Management to Charles Helsten regarding proposed amendment of solid waste management plan.
January 14, 2002	Correspondence from Dale Hoekstra of Waste Management of Illinois, Inc. to Solid Waste Director, Efraim Gil responding to a report of a citizen's group by the name of "Outrage" regarding capacity of the Kankakee landfill.
January 28, 2002	Correspondence from Dennis Wilt of Waste Management to Charles F. Helsten concerning proposed changes of the Kankakee County Solid Waste Management Plan.
April 11, 2002	Correspondences from Lee Addleman of Waste Management of Illinois to various land owners regarding the agreement to guarantee property value copied to Efraim Gil of Kankakee County.

**DOCUMENTS CONCERNING CONSULTING EXPERTS OF STAFF AND INTERNAL STAFF COMMUNICATIONS NOT SHARED WITH DECISION MAKER**

April 3, 2002	Internal memorandum between Mike Van Mill and Mike Lammey regarding consulting experts
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Kenneth A. Leshen

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April 23, 2002	Correspondence from Assistant State's Attorney Brenda Gorski concerning consulting expert retention.
October 30, 2001	Correspondence to Brenda Gorski regarding consulting expert retention.
January 6, 2003	Draft of summary report of proposed expansion of the Kankakee Recycling and Disposal Facility.
January 7, 2003	Correspondence between Chris Burger and Mike Van Mill regarding recommendations.
January 2003	E-mails between County staff and attorneys concerning amendments for recommendation report.

#### DOCUMENTS POST DATING DECISION

January 31, 2003 (issued after decision was rendered)	Memorandum from Waste Management of Illinois to Kankakee County Board.
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Sincerely

HINSHAW &amp; CULBERTSON

By:

  
 Richard S. Porter

RSP:dmh

cc: All Parties

ILLINOIS POLLUTION CONTROL BOARD

CITY OF KANKAKEE, )  
 )  
 ) Petitioner, ) PCB 03-125  
 ) (Third-Party Pollution Control Facility  
 ) vs. ) Siting Appeal)  
 )

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

MERLIN KARLOCK, )  
 )  
 ) Petitioner, ) PCB 03-133  
 ) (Third-Party Pollution Control Facility  
 ) vs. ) Siting Appeal)  
 )

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

MICHAEL WATSON, )  
 )  
 ) Petitioner, ) PCB 03-134  
 ) (Third-Party Pollution Control Facility  
 ) vs. ) Siting Appeal)  
 )

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

KEITH RUNYON, )  
 )  
 ) Petitioner, ) PCB 03-135  
 ) (Third-Party Pollution Control Facility  
 ) vs. ) Siting Appeal)  
 )

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

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

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Charles F. Helsten  
Richard S. Porter  
One of Attorneys

HINSHAW AND CULBERTSON  
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ILLINOIS POLLUTION CONTROL BOARD

THE CITY OF KANKAKEE, an Illinois	)	
Municipal Corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Case No. PCB 03-125
COUNTY OF KANKAKEE, a body politic and	)	
corporate; KANKAKEE COUNTY BOARD;	)	
and WASTE MANAGEMENT OF ILLINOIS,	)	
INC.,	)	
	)	
Defendants.	)	

**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

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Richard S. Porter  
One of Their Attorneys

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