

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROXANA LANDFILL, INC.)
)
 Petitioner,)
)
 v.)
)
 VILLAGE BOARD OF THE VILLAGE)
 OF CASEYVILLE, ILLINOIS; VILLAGE)
 OF CASEYVILLE, ILLINOIS; and)
 CASEYVILLE TRANSFER STATION,)
 LLC,)
)
 Respondents.)

PCB-15-65
 (Third Party Pollution Control
 Facility Siting Appeal)

VILLAGE OF FAIRMONT CITY,)
 ILLINOIS,)
)
 Petitioner,)
)
 v.)
)
 VILLAGE OF CASYEVILLE, ILLINOIS)
 BOARD OF TRUSTEES and)
 CASEYVILLE TRANSFER STATION,)
 LLC,)
)
 Respondents.)

PCB-15-69
 (Third Party Pollution Control
 Facility Siting Appeal)
 (Consolidated)

**RESPONDENT CASEYVILLE TRANSFER STATION, LLC'S
 MOTION TO COMPEL THE VILLAGE OF FAIRMONT CITY, ILLINOIS TO
 RESPOND TO DISCOVERY REQUESTS**

Now comes Respondent, Caseyville Transfer Station, LLC ("CTS"), by and through its attorney, Penni Livingston of the Livingston Law Firm, and hereby moves for an order compelling Petitioner the Village of Fairmont City, Illinois to respond to CTS's discovery requests. In support of its Motion, the Respondents state as follows:

1. On October 7, 2014, Respondents served upon Petitioner the Village of Fairmont City, Illinois certain Interrogatories and Request for Production of Documents.

2. In response to Interrogatory No. 2, which requested the facts or basis supporting or tending to support that Fairmont City is a person who may file a petition for review under Section 107.200(b) of the Pollution Control Board Rules and Section 140.01 of the Illinois Environmental Protection Act, including how Fairmont City is so located as to be affected by the proposed facility, Fairmont City did not provide any factual response and instead merely cited the Pollution Control Board decision in *Valessares v. County Board of Kane County*, PCB 87-36.

3. In response to Interrogatories No. 3 and 13, which requested information relating to the relationships between Fairmont City, Waste Management of Illinois, Inc. and attorney Donald Moran, Fairmont City objected on the ground that "it seeks information that is not relevant to any issue of jurisdiction or fundamental fairness in this appeal, nor is reasonably calculated to lead to the discovery of admissible evidence."

4. In response to Requests for Production No. 4 and No. 5, which sought copies of the Host Agreement and other agreements between Fairmont City and Waste Management of Illinois, Inc., and copies of agreements between Fairmont City and Donald Moran or his law firm, Pedersen & Haupt, Fairmont City objected that the requests were overly broad, unduly burdensome, and sought documents that were not relevant to any issue in this appeal.

5. Section 107.200 of the Pollution Control Board's procedural rules states in pertinent part:

The following persons may file a petition for review of a decision concerning siting of a new pollution control facility pursuant to Section 40.1 of the Act:

* * *

(b) Other persons. Any person who has participated in the public hearing conducted by the unit of local government and is so located as to be affected by the proposed facility may file a petition for review of the decision to grant siting.

6. On October 8, 2014, Respondents filed a joint motion to strike and dismiss, alleging, among other things, that: (a) Fairmont City is not so located as to be affected by the proposed facility, and (b) Fairmont City is a nominal party in this matter and Donald Moran is in fact representing the economic interests of Waste Management.

7. Because Respondents have moved for a ruling by the Pollution Control Board that Fairmont City is not a person who may file a petition for review under Section 107.200 of the Board's procedural rules and Section 40.1 of the Act, inquiries into the alleged effect of the proposed facility on Fairmont City, and the relationships between Fairmont City, Waste Management and Donald Moran are relevant.

WHEREFORE, the Respondent, Caseyville Transfer Station, LLC, prays for an order compelling Petitioner the Village of Fairmont City, Illinois to answer Interrogatories 2, 3 and 13, and to produce the documents requested in document production requests 4 and 5.

Respectfully submitted,

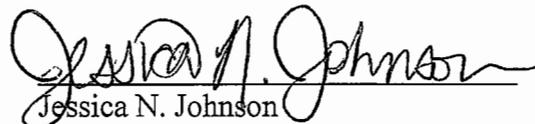
CASEYVILLE TRANSFER STATION, LLC

By: /s/Penni S. Livingston

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CERTIFICATE OF SERVICE

I, Jessica N. Johnson, do certify that I caused to be electronically filed on this 17th day of October, 2014, the foregoing Respondent Caseyville Transfer Station, LLC's Motion to Compel the Village of Fairmont City, Illinois to Respond to Discovery Requests to the parties of record by depositing the same electronically on the Illinois Pollution Control Board website as well as emailing the Motion to all parties.


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