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MAY 27 2014

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AMERICAN DISPOSAL SERVICES OF  
ILLINOIS, INC.,

Petitioner,

v.

COUNTY BOARD OF MCLEAN COUNTY,  
ILLINOIS, HENSON DISPOSAL, INC., and  
TKNTK, LLC

Respondents.

No. PCB 11-60

(Pollution Control Facility Siting  
Application)

**RESPONSE TO PETITIONER'S MOTION FOR SUMMARY JUDGMENT  
BASED ON JURISDICTION**

NOW COMES the Respondent, Henson Disposal, Inc. and TKNTK, LLC, by and through Richard T. Marvel, and makes the following Response to Petitioner's Motion for Summary Judgment Based on Jurisdiction.

**I. Motion to adopt Respondent, County of McLean, response to Petitioner's Motion for Summary Judgment.**

Henson Disposal, Inc. and TKNTK, LLC, Respondents, by their attorney, Richard T. Marvel, hereby moves to adopt the Response to Petitioner's Motion for Summary Judgment based on jurisdiction filed by the County of McLean.

**II. The description provided as to the rights of the public to comment contained in the Pre-filing Notice is not fatally flawed, rendering the Notice ineffective.**

In addition to the arguments raised by the County of McLean Illinois Courts have held that the construction of the statute must further the statutes purpose. As the County references the Board can take the County's local rules into consideration. *Waste Management of Illinois, Inc. v. Pollution Control Board, 175 Ill. App. 3<sup>rd</sup> 1023 (2<sup>nd</sup> Dist. 1988)*. In this instance the statute requires additional notice to be provided fourteen days prior to the public hearing. In addition to the statutory requirements the McLean County Ordinance provides direction relative

to written comments as well as procedures for public hearings. *See McLean County Ordinance Ch. 33, Sec. 7 and 13.* These procedures, via ordinance expand upon the statutory requirements relative to notice.

The statutory requirements relative to the rights of a person to comments are for the purpose of informing parties of their rights. The Notice provided by Henson raised this issue with the parties in addition the McLean County Ordinance further provided notice, going above and beyond the statutory requirements relative to the public hearing procedures and right to comment sections within the Ordinance. The Pre-filing Notice complied with the statutory intent and jurisdiction vested to the County to make the Siting decision.

HENSON DISPOSAL, INC.  
and TKNTK, LLC, Defendants

By: 

\_\_\_\_\_  
Their attorney

MARVEL LAW P.C.  
Richard T. Marvel  
202 N. Center Street, Suite 2  
Bloomington, IL 61701  
(309) 829-9486  
[marvel@me.com](mailto:marvel@me.com)  
ARDC No: 6275455

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CERTIFICATE OF SERVICE

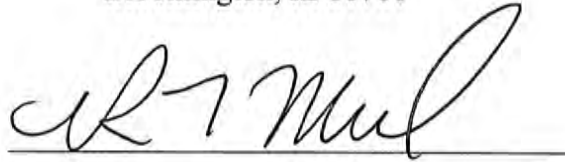
The undersigned certifies that he served the foregoing Response to Petitioner's Motion for Summary Judgment Based on Jurisdiction on the following named individuals by placing same in an envelope to the address indicated and depositing said envelope in the United States Mail, first class postage fully prepaid, at or about the hour of 5:00 p.m., this 23 day of May, 2014:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274

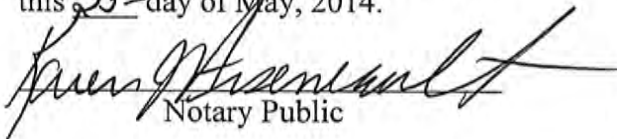
Jennifer J. Sackett Pohlenz  
Clark Hill PLC  
150 N. Michigan Ave., Suite 2700  
Chicago, IL 60601

Amy L. Jackson  
Rammelkamp Bradney, P.C.  
232 West State Street  
Jacksonville, IL 62650

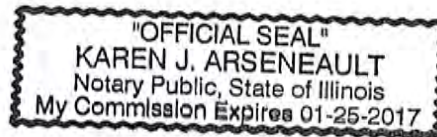
Hannah R. Eisner  
County of McLean  
115 E. Washington, Rm. 401  
Bloomington, IL 61701



Subscribed and sworn to before me  
this 23<sup>rd</sup> day of May, 2014.



Notary Public



**MARVEL LAW P.C.**  
RICHARD T. MARVEL  
202 NORTH CENTER STREET, SUITE 2  
BLOOMINGTON, ILLINOIS 61701  
(309) 829-9486  
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**MAY 27 2014**

STATE OF ILLINOIS  
Pollution Control Board

Deborah Moore, Of Counsel

May 23, 2014

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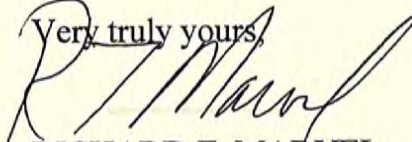
John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Ste. 11-500  
Chicago, IL 60601

RE: American Disposal v. County Board of McLean County, et al  
PCB 11-60

Dear Sir:

Enclosed please find a Response to Petitioner's Motion for Summary Judgment Based on Jurisdiction in regard to the above. I have enclosed an original and eight copies and a copy to be file-stamped and returned in the enclosed stamped envelope.

Thank you for your assistance in regard to this matter.

Very truly yours,  
  
RICHARD T. MARVEL

RTM:ka  
Enclosures