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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD** CLERK'S OFFICE

AUG 28 2003

LOWE TRANSFER, INC. and )  
MARSHALL LOWE, )  
Co-Petitioners, )  
vs. )  
COUNTY BOARD OF McHENRY )  
COUNTY, ILLINOIS )  
Respondents. )

No. PCB 03-221

(Pollution Control Facility Siting Appeal)

STATE OF ILLINOIS  
Pollution Control Board

**NOTICE OF FILING**

TO: See List Referenced in Proof of Service

PLEASE TAKE NOTICE that on August 26, 2003, we filed with the Illinois Pollution Control Board, the attached Lowe Transfer, Inc. and Marshall Lowe's **MOTION TO STRIKE VILLAGE OF CARY'S BRIEF AND MOTION FOR SANCTIONS** in the above entitled matter.

LOWE TRANSFER, INC. and  
MARSHALL LOWE

By: David W. McArdle  
David W. McArdle

**PROOF OF SERVICE**

I, a non-attorney, on oath state that I served the foregoing Motion on the following parties by depositing same in the U. S. mail on this 26<sup>TH</sup> day of August, 2003 and via-fax on the 26<sup>th</sup> day of August, 2003:

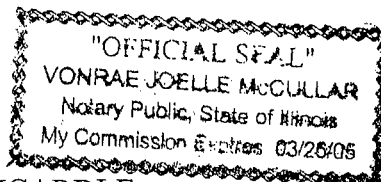
Attorney for County Board of  
McHenry County, Illinois  
Charles F. Helsten  
Hinshaw and Culbertson  
100 Park Avenue, P.O. Box 1389  
Rockford, IL 61105-1389  
815-490-4900; FAX 815/963-9989

Hearing Officer  
Bradley P. Halloran  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 West Randolph Street  
Chicago, IL 60601  
312-814-8917; FAX 312/814-3669

SUBSCRIBED and SWORN to before  
me this 26<sup>th</sup> day of August, 2003

V. Joelle McCullar  
Notary Public

David W. McArdle  
Attorney Registration No. 06182127  
ZUKOWSKI ROGERS FLOOD & MCARDLE  
50 Virginia Street  
Crystal Lake, Illinois 60014  
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5. Ms. Percy Angelo, author of the Village's brief, has extensive experience before the Pollution Control Board going back to 1972 - a fact she pointed out in the Village's Public Comment filed with the Board on August 7, 2003.

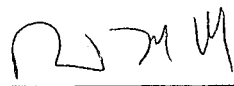
6. In this proceeding, the Village has already been reprimanded by this Board for rules violations. (See Board order dated August 7, 2003.)

7. Lowe has been forced to spend considerable time and expense in defending against these actions by the Village.

8. The complete disregard by the Village and its attorney for the Board's own actions and rules can no longer be ignored.

WHEREFORE, Co-Petitioners, LOWE TRANSFER, INC. and MARSHALL LOWE, request the Pollution Control Board strike the Village of Cary's Brief on Behalf of Amicus Curiae Village of Cary and issue sanctions against the Village for failure to comply with Board rules in this siting appeal.

Respectfully submitted,  
LOWE TRANSFER, INC. and  
MARSHALL LOWE  
By: Zukowski, Rogers, Flood & McArdle

By:   
David W. McArdle

David W. McArdle, Attorney No: 06182127  
ZUKOWSKI, ROGERS, FLOOD & MCARDLE  
Attorney for Lowe Transfer, Inc, and Marshall Lowe  
50 Virginia Street  
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815/459-2050; 815/459-9057 (fax)