

AUG 28 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

LOWE TRANSFER, INC. and)	
MARSHALL LOWE,)	
)	
Co-Petitioners,)	No. PCB 03-221
)	
vs.)	(Pollution Control Facility
)	Siting Appeal)
)	
COUNTY BOARD OF McHENRY)	
COUNTY, ILLINOIS)	
)	
Respondent)	

**CO-PETITIONERS' MOTION TO
STRIKE VILLAGE OF CARY'S
BRIEF AND MOTION FOR SANCTIONS**

Co-Petitioners, Lowe Transfer, Inc. and Marshall Lowe ("Lowe"), by and through its attorneys, Zukowski Rogers Flood & McArdle, respectfully request the Pollution Control Board, to strike the Village of Cary's (the "Village") Amicus and issue sanctions against the Village for failure to comply with Board rules in this siting appeal. In support of this Motion, Lowe states as follows:

1. On August 25, 2003, the Village filed its 56-page Amicus Brief in direct violation of Section 101.302(k).
2. Section 101.302(k) of the Board's procedural rules very clearly states that no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer.
3. Neither the hearing officer nor the Board has received a request for permission to file a brief over 20 pages in length from the Village nor granted such a request.
4. The Village not only exceeded the page limitation provided for an amicus curiae brief but exceeded the 50 page limitation for a brief filed by a party.

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.

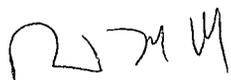
6. In this proceeding, the Village has already been reprimanded by this Board for rules violations. (See Board order dated August 7, 2003.)

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

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