

1 ILLINOIS POLLUTION CONTROL BOARD

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CITIZENS AGAINST LANDFILL)

4 EXPANSION (CALE),)

)

5 Petitioner,)

)

6 vs.) PCB No. 03-236

) (Pollution Control

7 AMERICAN DISPOSAL SERVICES OF) Facility Siting

ILLINOIS, INC., and LIVINGSTON) Appeal)

8 COUNTY BOARD,)

)

9 Respondents.)

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16 The following is the transcript of a hearing

17 held in the above-entitled matter, taken

18 stenographically by Gale G. Everhart, CSR-RPR, a notary

19 public within and for the County of Peoria and State of

20 Illinois, before Bradley P. Halloran, Hearing Officer,

21 at the Pontiac City Hall, 115 West Howard Street,

22 Pontiac, Illinois, on the 8th day of September, A.D.

23 2003, commencing at 8:05 a.m.

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1 PRESENT:

2 HEARING TAKEN BEFORE:
 3 ILLINOIS POLLUTION CONTROL BOARD
 4 100 West Randolph Street
 5 James R. Thompson Center, Suite 11-500
 6 Chicago, Illinois 60601
 (312) 814-8917
 5 BY: MR. BRADLEY P. HALLORAN

6 APPEARANCES:

7
 8 CAROLYN GERWIN, ESQUIRE
 9 Attorney at Law
 705 South Locust Street
 Pontiac, Illinois 61764
 (815) 842-2486
 10 On Behalf of the Petitioner.
 11 EHRMANN, GEHLBACH, BADGER & LEE
 BY: DOUGLAS E. LEE, ESQUIRE
 12 Attorney at Law
 P.O. Box 447
 13 Dixon, Illinois 61021
 (815) 288-4949
 14 On Behalf of the Respondent American Disposal
 Services, Inc.
 15
 16 BLAKEMAN, SCHROCK, BAUKNECHT
 BY: C. THOMAS BLAKEMAN, ESQUIRE
 Attorney at Law
 17 307 West Washington Street
 Pontiac, Illinois 61764
 18 (815) 844-6177
 On Behalf of the Respondent the Livingston
 19 County Board.
 20

21 ALSO PRESENT:

21 Sandra Egle
 22 Julie Russow
 Doris Burnside
 23 Linda Unterman
 Archie Burnside
 24 David Bryant
 John McDonnell

1 HEARING OFFICER HALLORAN: We can go on record. I
2 am just going to do this little intro. My name is
3 Bradley Halloran. I'm a hearing officer with the
4 Illinois Pollution Control Board. I'm also assigned to
5 this matter. And the matter is Citizens Against
6 Landfill Expansion, Petitioner, versus American Disposal
7 Services of Illinois, Inc., and Livingston County Board,
8 PCB 03-236.

9 Today is September 8th in the year 2003. It
10 is approximately 8:05. I do want to state that
11 Petitioner's appeal on the grounds that the siting
12 decision below is incorrect and several findings
13 regarding the statutory criteria was against the
14 manifest weight of evidence. The hearing was
15 fundamentally unfair, and there were jurisdictional
16 defects.

17 This hearing has been scheduled in accordance
18 with the Illinois Environmental Protection Act in the
19 Board's rules and procedures. It will be conducted
20 according to the procedural rules, section 107.400 and
21 101 subpart F.

22 Quickly, I would like to talk about the
23 procedure. I think most of you know that I will not be
24 making the ultimate decision in the case. The Board

1 will review the transcript proceedings, the remainder of
2 the record and decide the case. My job is to ensure an
3 orderly hearing and that a clear record is developed so
4 that the Pollution Control Board will take a look at
5 that and make a decision. After the hearing the parties
6 will also have an opportunity to submit posthearing
7 briefs. These, too, will be considered by the Board.
8 Public comment is also accepted during the public
9 comment period.

10 With that said, Ms. Gerwin, would you like to
11 introduce yourself and state any preliminary matters.

12 MS. GERWIN: Yes. My name is Carolyn Gerwin,
13 counsel for Citizens Against Landfill Expansion. And
14 with me today I have some members of CALE who have been
15 authorized to be here today, Sandy Egle, Julie Russow,
16 Doris Burnside, Linda Unterman and Archie Burnside.

17 HEARING OFFICER HALLORAN: Do you need the spelling
18 on that?

19 COURT REPORTER: I can get them after we are done.

20 HEARING OFFICER HALLORAN: Proceed. I'm sorry.

21 MS. GERWIN: The parties have discussed the
22 possibility of settling this matter and request to take
23 some time this morning to explore that further.

24 HEARING OFFICER HALLORAN: Okay. Do you wish to

1 then -- after Mr. Lee states his position, would you
2 like to then just call this hearing for today and
3 continue it tomorrow at 8 a.m.?

4 MS. GERWIN: Yes.

5 HEARING OFFICER HALLORAN: In the event that you
6 settle, I assume you will notify me. But in any event
7 and regardless, I think we will have to meet back here
8 and put it on record, just the fact that you settled.
9 You don't have to submit anything. And then we will
10 take it from there.

11 MS. GERWIN: Okay.

12 HEARING OFFICER HALLORAN: And I also
13 have -- before I forget, I'm sorry, Mr. Lee -- I was
14 faxed -- I was on vacation last week, and on the 5th of
15 September I was faxed to my home from the Pollution
16 Control Board's office I got the petitioner's notice of
17 service of disclosure of witness list. I didn't receive
18 all those documents. Also there was a motion to quash a
19 subpoena, I think filed by John Heyde. And he filed a
20 limited appearance, and that's all I have. I don't know
21 what that is about. But in any event, I just wanted to
22 get that on record.

23 Mr. Lee.

24 MR. LEE: Yes, Mr. Halloran, thank you. Ms. Gerwin

1 is correct. We have discussed settlement. I believe
2 the parties are close to an agreement. It's just
3 hopefully a matter of getting a document prepared. And
4 we would join in her motion to continue the hearing
5 until 8:00 tomorrow.

6 HEARING OFFICER HALLORAN: Okay. Any other
7 comments?

8 MS. GERWIN: No.

9 HEARING OFFICER HALLORAN: We are going to adjourn
10 until 8 tomorrow morning, but please notify me. You
11 have my work number, and I will call in my voice mail
12 just so I'm apprised of the situation, 312-814-8917.
13 And I'll check my voice mail messages. We will see
14 everybody back here tomorrow, September 9 at 8 a.m. And
15 if there is no further comment, this concludes the
16 hearing for today and we will continue tomorrow. Thank
17 you.

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21 (Whereupon, the proceedings concluded
22 at 8:10 a.m.)

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1 STATE OF ILLINOIS)
) SS

2 COUNTY OF PEORIA)

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CERTIFICATE OF REPORTER

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 I, GALE G. EVERHART, CSR-RPR, Notary Public
8 in and for the County of Peoria, State of Illinois, do
9 hereby certify that the foregoing transcript, consisting
10 of pages 1 through 6, both inclusive, constitutes a true
11 and accurate transcript of the original stenographic
12 notes recorded by me of the foregoing proceedings had
13 before Hearing Officer Bradley P. Halloran, in Pontiac,
14 Illinois, on the 8th of September, A.D. 2003.

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Dated this 9th day of September, A.D. 2003.

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Gale G. Everhart

GALE G. EVERHART, CSR-RPR

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Illinois License No. 084-004217

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