

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

VILLAGE OF SOUTH ELGIN,

Complainant,

v.

WASTE MANAGEMENT OF ILLINOIS, INC.;

Respondent.

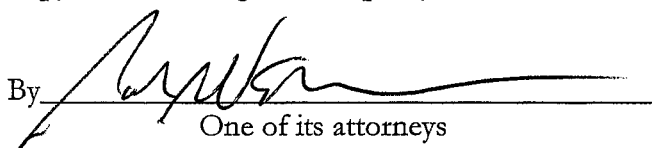
AUG 12 2003

No. PCB 03-106 STATE OF ILLINOIS
Pollution Control Board
(Enforcement)

NOTICE OF FILING

To: Donald J. Moran
Loren Blair
Pedersen & Houpt
161 North Clark Street-Suite 3100
Chicago, IL 60602

PLEASE TAKE NOTICE that on August 12th, 2003, I have caused to be filed with the Illinois Pollution Control Board; Thompson Center; Chicago, Illinois, the attached **ANSWER OF VILLAGE OF SOUTH ELGIN TO AFFIRMATIVE DEFENSE OF WASTE MANAGEMENT OF ILLINOIS, INC.**, a copy of same being served upon you.

By 
One of its attorneys

Derke J. Price
Paul N. Keller
ANCEL, GLINK, DIAMOND, BUSH, DICIANI & ROLEK, P.C.
140 South Dearborn Street, Sixth Floor
Chicago, Illinois 60603
(312) 782-7606 Tel
(312) 782-0943 Fax

CERTIFICATE OF SERVICE

The undersigned certifies that she served a copy of this Notice of Filing and its attachment by sealing same in a duly-addressed envelope, with proper first-class postage prepaid, and depositing said envelope in the US Mail at 140 South Dearborn; Chicago, Illinois, before the hour of 5:00 p.m., on this 12th day of August, 2003.

Under penalties as provided by law pursuant to 735 ILCS 5/1-109,

I certify that the statements set forth herein are true and correct.

L:\LStefanich\My Documents\Derke\Village of South Elgin\WasteMgmt\PollutionControlBoard\NetFilingAnswer.wpd / 3327310.000



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VILLAGE OF SOUTH ELGIN,

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No. PCB 03-106

(Enforcement)

**ANSWER OF VILLAGE OF SOUTH ELGIN TO
AFFIRMATIVE DEFENSE OF WASTE MANAGEMENT
OF ILLINOIS, INC.**

The Village of South Elgin ("Village"), by and through its attorneys, ANCEL, GLINK, DIAMOND, BUSH, DICIANI & ROLEK, P.C., as and for its Answer to the Affirmative Defenses of Defendant Waste Management of Illinois, Inc. ("WMI") states as follows:

FIRST AFFIRMATIVE DEFENSE

1. The Complaint alleges that WMII's request for local siting approval of the Woodland Transfer Facility on an 8.9 acre portion of the Woodland Landfill property violates certain terms and conditions of the Resolution.

ANSWER: Admitted.

2. The Complaint is premature because WMII's request for local siting approval of the Woodland Transfer Facility was denied by the Kane County Board.

ANSWER: Denied.

3. Therefore, unless and until the Board reverses the Kane County Board's decision denying local siting approval, WMII lacks the ability to site the Woodland Transfer Facility and the Village's Complaint fails to allege an actual controversy ripe for determination.

ANSWER: Denied.

4. The Complaint is also premature because the Resolution did not contain a final and definitive end use plan.

ANSWER: Denied.

5. Any steps toward implementing an end use plan must first be coordinated with, and approved by, the appropriate governmental authorities.

ANSWER: Denied.

6. To date, no end use plan has been approved or adopted. Therefore, unless and until WMII receives the approval and assistance of the appropriate authorities, WMII is unable to implement any end use plan.

ANSWER: Denied, stating further, WMII refuses to begin the process of seeking approval and assistance to accomplish the promised end use plan.

WHEREFORE, the Village of South Elgin respectfully requests that this Honorable Board enter an order denying WMI's defenses and granting the Village the relief it seeks.

SECOND AFFIRMATIVE DEFENSE

1. The Resolution required that the Woodland Landfill site be developed and operated in a manner consistent with the representations made at the public hearing held on July 26, 1988.

ANSWER: Admitted.

2. No representations were made by WMII at the July 26, 1988 public hearing that any specific end use plan would be implemented on any part of the Woodland Landfill site.

ANSWER: Denied.

3. Therefore, the Resolution does not contain any condition that requires WMII to implement an end use plan on any part of the Woodland Landfill site.

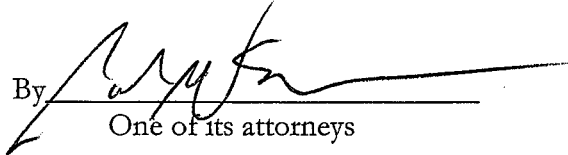
ANSWER: Denied.

WHEREFORE, the Village of South Elgin respectfully requests that this Honorable Board enter an order denying WMI's defenses and granting the Village the relief it seeks.

Respectfully submitted,

VILLAGE OF SOUTH ELGIN,
a municipal corporation,

By



One of its attorneys

Derke J. Price

PAUL N. KELLER

ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & ROLEK, P.C.

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