

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

BYRON SANDBERG,

Petitioner,

No. PCB 04-33

(Third-Party Pollution Control
Facility Siting Appeal)

THE CITY OF KANKAKEE, ILLINOIS CITY
COUNCIL, TOWN AND COUNTRY UTILITIES,
INC. and KANKAKEE REGIONAL LANDFILL,
L.L.C.

Respondents.

WASTE MANAGEMENT OF ILLINOIS, INC.,

Petitioner,

No. PCB 04-34

(Third-Party Pollution Control
Facility Siting Appeal)

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COUNCIL, TOWN AND COUNTRY UTILITIES,
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COUNTY OF KANKAKEE, ILLINOIS and
EDWARD D. SMITH, KANKAKEE COUNTY
STATE'S ATTORNEY,

Petitioner,

No. PCB 04-35

(Third-Party Pollution Control
Facility Siting Appeal)
(Consolidated)

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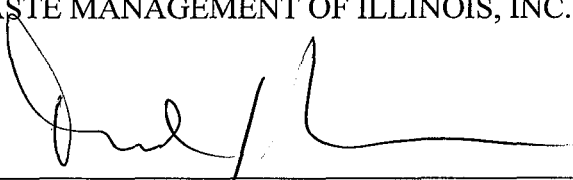
NOTICE OF FILING

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TO: See Attached Service List

PLEASE TAKE NOTICE that on November 12, 2003, we filed with Mr. Bradley Halloran, the attached **MOTION TO COMPEL RESPONDENT CITY OF KANKAKEE, ILLINOIS CITY COUNCIL TO ANSWER REQUESTS FOR ADMISSION OF FACT AND INTERROGATORY** in the above entitled matter.

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

One of Its Attorneys

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 3100
Chicago, Illinois 60601
(312) 641-6888
Attorney Registration No. 1953923

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ORIGINAL

BYRON SANDBERG,

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**MOTION TO COMPEL RESPONDENT CITY OF KANKAKEE
TO ANSWER REQUESTS FOR ADMISSION OF FACT AND INTERROGATORY**

Petitioner, WASTE MANAGEMENT OF ILLINOIS, INC. ("WMII"), by its attorneys, Pedersen & Houpt, pursuant to Sections 101.616(b) and 101.618(h) of the Board's Procedural Rules, moves for an order overruling the objection of City of Kankakee, Illinois, City Council ("City") to certain requests for admission of fact and one interrogatory and compelling City to answer them. In support of this motion, WMII states as follows:

1. On October 16, 2003, WMII served Request for Admission ("Request") on City. The Request contained 21 requests to admit facts relating to the contents of the 2002 and 2003 siting applications (nos. 1-21). The filing of substantially the same application as one disapproved within the preceding two years is a jurisdictional issue properly considered by the Pollution Control Board in a Section 40.1(b) appeal. 415 ILCS 5/39.2(b)(m) (2002). A true and correct photocopy of the Request is attached as Exhibit A.

2. On November 7, 2003, City filed its Response to the Request for Admission ("City Response"). In its Response, City objected to 18 requests to admit on the grounds that they called for a legal conclusion. In addition, City objected to 17 requests (nos. 5-21) because they are alleged to address issues on which the record is closed, and no further discovery is permitted. A true and correct photocopy of the City Response is attached as Exhibit B.

3. None of the requests to admit calls for a legal conclusion. Section 101.618 allows a request for admission of the truth of any "specific statements of fact." Each of the requests involves a specific statement of fact, not a legal conclusion. Statements of fact include the contents of a document, a party's understanding of the meaning of a document, and a party's conduct pursuant to a document. P.R.S. International, Inc. v. Shred Pax Corp., 184 Ill.2d 224, 236-37, 703 N.E.2d 71 (1998); Booth Oil Site Administrative Group v. Safety-Kleen Corporation, 194 F.R.D. 76, 80 (W.D.N.Y. 2000). Statements of fact involve whether an action

was taken, a statement made, an event occurred or a consequence resulted. Hubeny v. Chairse, 305 Ill.App.3d 1038, 713 N.E.2d 222, 226 (2d Dist. 1999). Such requests to admit statements of fact are proper. Robertson v. Sky Chefs, Inc., 2003 Ill.App. LEXIS 1270, at 2, 4-5 (1st Dist., October 17, 2003).

4. Moreover, a request to admit may seek admission of an "ultimate" fact or a fact that necessarily leads to a legal conclusion. P.R.S. International, 184 Ill.2d at 236; Hubeny, 713 N.E.2d at 226. Even if the admission of facts (*e.g.* party's failure to observe red traffic light resulted in collision that caused compensable injury) requires a legal conclusion (*e.g.*, party was negligent and liable for injury), a request for that admission does not call for a legal conclusion and is proper. Hubeny, 713 N.E.2d at 226. So long as the fact finding must take some analytical step, no matter how small, from the contents of the admission to reach the legal conclusion, the request for admission is proper. Hubeny, 713 N.E.2d at 226.

5. City's objection to Request Nos. 5 through 21 that the record is closed and no further discovery is permitted is also meritless. Requests for admission are not discovery. P.R.S. International, 184 Ill.2d at 237. The purpose of requests to admit are not to discover facts, but to establish facts so as to narrow the issues for trial. P.R.S. International, 184 Ill.2d at 237. Proper use of requests to admit will save substantial time and cost for the parties and the Board. Szczeblewski v. Gossett, ___ Ill.App.3d ___, 795 N.E.2d 368, 372 (5th Dist. 2003). The Request seeks to establish facts relating to pre-filing notice and to the filing of a second application for the purpose of narrowing factual issues and obviating the necessity of formal proof at hearing.

Specific Objections

6. City objects that it is unable to respond to Request No. 4 because it calls for a legal conclusion. City then asserts that the "allegation speaks for itself." Both claims are

groundless. Whether the 2003 siting application requests location approval for the same 400 acre landfill for which T&C requested approval in the 2002 siting application is clearly a question of fact. Safety-Kleen Corporation, 194 F.R.D. at 80. An assertion that an "allegation speaks for itself" is not a proper response to a request to admit. Safety-Kleen Corporation, 194 F.R.D. at 80.

7. City objects to Request Nos. 5 through 21 as calling for legal conclusions. The objection is without merit. Request Nos. 5 through 21 request that City admit the contents of two documents: the siting applications filed by T&C with the City of Kankakee in 2002 and 2003. The contents of those applications, including the City's understanding of the applications, are questions of fact which are proper subjects for a request to admit. P.R.S. International, 184 Ill.2d at 236-37; Safety-Kleen Corporation, 194 F.R.D. at 80. The fact that the admission of certain of these Requests may result in reaching the conclusion that the 2003 siting application is substantially the same as the 2002 siting application does not render any individual Request improper as seeking a legal conclusion. None of the Requests ask City to admit that the 2003 siting application is substantially the same as the 2002 siting application that was disapproved by the Pollution Control Board. Even if such a request to admit were presented, City acknowledges that the issue is a question of fact. (City Response, ¶¶ 19-36.) In any event, Request Nos. 5 through 21 merely seek admission regarding the contents of the written applications. The contents of these documents, and City's understanding of them, are questions of fact properly presented in a request to admit. Robertson, at 2-5; Szczeblewski, 795 N.E.2d at 371; Safety-Kleen Corporation, 194 F.R.D. at 80.

8. City further objects to Request Nos. 5 through 21 because they are alleged to address issues on which the record is closed, and "in which there can therefore be no additional

discovery or evidence presented." (City Response, ¶¶ 5-21.) The objection is groundless. Jurisdictional issues involving Section 39.2(m) of the Illinois Environmental Protection Act is properly considered by the Pollution Control Board in this appeal. 415 ILCS 5/40.1 (2002). Hence, the record is not closed on this issue. In addition, the purpose of requests to admit is not to discover facts but to establish them, so that issues may be narrowed and the necessity of formal proof at hearing minimized. P.R.S. International, 184 Ill.2d at 28 __; Szczeblewski, __ N.E.2d at __. The Request is proper as a means to establish facts and obviate the need for extensive formal proof at hearing.

9. On October 16, 2003, WMII served interrogatories on City. A true and correct photocopy of Petitioner's Interrogatories are attached as Exhibit C. Interrogatory No. 4 asks that the City provide information explaining or supporting any denials of the requests to admit.

10. City objected to Interrogatory No. 5 by stating as follows: "The Respondent objects to this Interrogatory as said Response to the Request to Admit Facts speaks for themselves and any further comment on the same is irrelevant." Thus it appears that the City's objection to Interrogatory No. 4 is substantially the same as its objection to the requests to admit. A true and correct photocopy of the City's Answers to Petitioners (Waste Management) Interrogatories is attached as Exhibit D.

11. Interrogatory No. 4 is clear. It requests the City to fairly address the substance of the requested admissions by providing information explaining or supporting its denials. As discussed above, the Section 39.2(m) issue is relevant in this appeal, and the requests seek the admission of facts, not legal conclusions. An objection to an interrogatory that asserts that denials to request to admit "speak for themselves" is legally insufficient, and should be overruled.

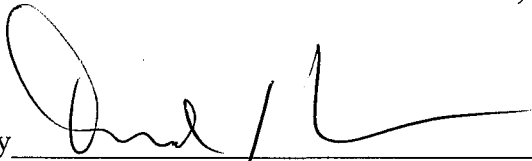
WHEREFORE, WMII requests that an order be entered:

- (A) requiring the City to answer Request Nos. 4 through 21;
- (B) requiring the City to answer Interrogatory No. 4 for each request to admit it denies; and
- (C) and awarding such other and further relief as deemed necessary and just.

Dated: November 7, 2003.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By 
One of Its Attorneys

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 3100
Chicago, Illinois 60601
(312) 641-6888

PROOF OF SERVICE

**Victoria L. Kennedy, a non-attorney, on oath states that she served the foregoing
MOTION TO COMPEL RESPONDENT CITY OF KANKAKEE, ILLINOIS CITY
COUNCIL TO ANSWER REQUESTS FOR ADMISSION OF FACT AND
INTERROGATORY on the following parties as set out below:**

**Bradley Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11th Floor
Chicago, Illinois 60601
via hand delivery**

Mr. George Mueller
Attorney at Law
501 State Street
Ottawa, IL 61350
via facsimile transmission - (815) 963-9989

Mr. Byron Sandberg
109 Raub Ave
Donovan IL 60931
*via electronic transmission-
byronsandberg@starband.net*

Mr. Kenneth Leshen
Assistant City Attorney
One Dearborn Square
Suite 550
Kankakee, IL 60901
via facsimile transmission - (815) 933-3397

L. Patrick Power, Esq.
956 North Fifth Avenue
Kankakee, IL 60901
via facsimile transmission - (815) 937-0056

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
via hand delivery

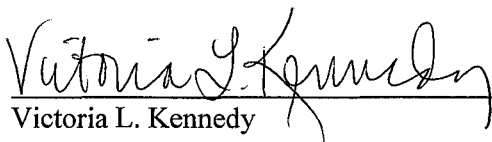
Mr. Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105-1389
via facsimile transmission - (815) 963-9989

Edward Smith
Kankakee County State's Attorney
Kankakee County Administration Building
189 East Court Street
Kankakee, Illinois 60901
via facsimile transmission - (815) 937-3932

Christopher Bohlen
Barmann, Kramer and Bohlen, P.C.
300 East Court Street, Suite 502
P.O. Box 1787
Kankakee, IL 60901
via facsimile transmission - 815/939-0994

Ms. Claire Manning
Posegate & Denes, P.C.
111 N. Sixth Street
Springfield, IL 62705
via facsimile transmission - (217) 522-6184

by electronic transmission to Mr. Byron Sandberg at the e-mail address noted above, by hand delivery to Mr. Bradley Halloran and Ms. Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, by facsimile transmission to the parties with facsimile numbers indicated above, and by depositing a copy thereof enclosed in an envelope in the U.S. mail at 161 N. Clark St., Chicago, Illinois 60601 on this 12th day of November, 2003.


Victoria L. Kennedy

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REQUEST FOR ADMISSION

376297.1

EXHIBIT

A

Pursuant to Section 101.618 of the Pollution Control Board Procedural Rules, Petitioner, WASTE MANAGEMENT OF ILLINOIS, INC. ("WMII") requests that Respondent, CITY OF KANKAKEE, ILLINOIS CITY COUNCIL ("City"), admit the following facts in writing and under oath within twenty-eight (28) days of service. Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney.

REQUESTS TO ADMIT

1. On March 13, 2002, Town & Country Utilities, Inc. ("T & C") filed an application with the City of Kankakee pursuant to Section 39.2 of the Illinois Environmental Protection Act ("Act") requesting location approval for the Kankakee Regional Landfill ("2002 Application").

Answer:

2. The Kankakee Regional Landfill is a proposed 400-acre sanitary landfill located in Otto Township in the City of Kankakee, Illinois.

Answer:

3. On March 7, 2003, T & C filed a second application with the City of Kankakee pursuant to Section 39.2 of the Act requesting location approval for the Kankakee Regional Landfill ("2003 Application").

Answer:

4. The 2003 Application requests location approval for the same 400-acre landfill for which T & C requested location approval in the 2002 Application.

Answer:

5. The information and analysis presented by T & C to demonstrate compliance with criterion one (415 ILCS 5/39.2(a)(i)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion one in the 2002 Application.

Answer:

6. The information and analysis presented by T & C to demonstrate compliance with criterion two (415 ILCS 5/39.2(a)(ii)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion two in the 2002 Application.

Answer:

7. The location, size and legal description of the Kankakee Regional Landfill presented in the 2003 Application was the same as presented in the 2002 Application.

Answer:

8. The design of the Kankakee Regional Landfill in the 2003 Application was substantially the same as presented in the 2002 Application.

Answer:

9. As proposed in the 2002 Application, the Kankakee Regional Landfill had a capacity of 50.9 million airspace cubic yards, a waste footprint of 236.3 acres and would receive an average of 3500 tons of waste per day.

Answer:

10. As proposed in the 2003 Application, the Kankakee Regional Landfill had a capacity of 50.9 million airspace cubic yards, a waste footprint of 236.3 acres and would receive an average of 3500 tons of waste per day.

Answer:

11. As proposed in the 2002 Application, the design of the Kankakee Regional Landfill consisted of a composite liner, leachate collection system, inward hydraulic gradient, landfill gas management and groundwater monitoring.

Answer:

12. As proposed in the 2003 Application, the design of the Kankakee Regional Landfill consisted of a composite liner, leachate collection system, inward hydraulic gradient, landfill gas management and groundwater monitoring.

Answer:

13. Both the 2002 Application and 2003 Application proposed that the liner system be keyed into the Silurian dolomite bedrock.

Answer:

14. The proposed operation of the Kankakee Regional Landfill presented in the 2003 Application is the same as presented in the 2002 Application.

Answer:

15. The information and analysis presented by T & C to demonstrate compliance with criterion three (415 ILCS 5/39.2(a)(iii)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion three in the 2002 Application.

Answer:

16. The information and analysis presented by T & C to demonstrate compliance with criterion four (415 ILCS 5/39.2(a)(iv)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion four in the 2002 Application.

Answer:

17. The information and analysis presented by T & C to demonstrate compliance with criterion five (415 ILCS 5/39.2(a)(v)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion five in the 2002 Application.

Answer:

18. The information and analysis presented by T & C to demonstrate compliance with criterion six (415 ILCS 5/39.2(a)(vi)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion six in the 2002 Application.

Answer:

19. The information and analysis presented by T & C to demonstrate compliance with criterion seven (415 ILCS 5/39.2(a)(vii)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion seven in the 2002 Application.

Answer:

20. The information and analysis presented by T & C to demonstrate compliance with criterion eight (415 ILCS 5/39.2(a)(viii)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion eight in the 2002 Application.

Answer:

21. The information and analysis presented by T & C to demonstrate compliance with criterion nine (415 ILCS 5/39.2(a)(iv)) in the 2003 Application was substantially the same as the information and analysis presented by T & C to demonstrate compliance with criterion nine in the 2002 Application.

Answer:

22. On July 28, 2003, the City received a copy of the final report of Mr. Ralph Yarborough of Geo-Technical Associates, Inc. concerning the proposed Kankakee Regional Landfill.

Answer:

23. The City did not provide a copy of the final report of Mr. Ralph Yarborough of Geo-Technical Associates, Inc. concerning the proposed Kankakee Regional Landfill to any of the parties who appeared at the siting hearing.

Answer:

24. Prior to August 18, 2003, the City received the written findings of fact and conclusions of law of Hearing Officer Robert Boyd.

Answer:

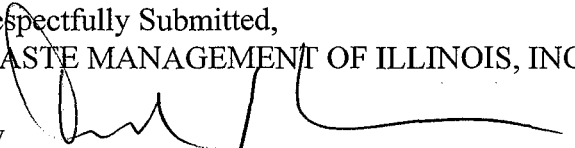
25. The City did not provide a copy of the Hearing Officer's findings and conclusions to any of the parties who appeared at the siting hearing.

Answer:

26. The City accepted the Hearing Officer's findings and conclusions in a written decision granting local siting approval on August 18, 2003.

Answer:

Respectfully Submitted,
WASTE MANAGEMENT OF ILLINOIS, INC.

By 

Donald J. Moran

Donald J. Moran
PEDERSEN & HOUP, P.C.
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Telephone: (312) 641-6888

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(Consolidated)RESPONSE TO REQUEST TO ADMIT

NOW COMES the respondent, THE CITY OF KANKAKEE, by and through its
attorneys, CHRISTOPHER W. BOHLEN, Corporation Counsel, KENNETH A. LESHEN and L.

EXHIBIT

B

-2-

PATRICK POWER, Assistant City Attorneys, and herewith responds to the Request to Admit as follows:

1. The Respondent admits Paragraph 1 of the Request to Admit Facts.
2. The Respondent denies Paragraph 2 of the Request to Admit Facts.
3. The Respondent denies Paragraph 3 of the Request to Admit Facts.
4. The Respondent is unable to admit or deny the allegations contained in Paragraph 4 of the Request to Admit Facts as said Request seeks Respondent to provide a legal conclusion. However, without waiving this objection, Respondent states that said allegation speaks for themselves.
5. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.
6. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.
7. The Respondent objects to replying to this Request as said Request seeks a legal

-3-

opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.

8. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.

9. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.

10. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue

-4-

before this hearing.

11. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.

12. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before this hearing.

13. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

14. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented.

-5-

The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

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16. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

17. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

18. The Respondent objects to replying to this Request as said Request seeks a legal

-6-

opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

19. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore, the information sought is irrelevant to any issue before the hearing.

20. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

21. The Respondent objects to replying to this Request as said Request seeks a legal opinion. In addition, the Respondent objects to this Request addressing issues on which the record is already closed and for which no additional discovery or evidence is to be presented. The City previously made its determination on this issue which is found in the findings of fact

-7-

and any further discovery is improper. Therefore the information sought is irrelevant to any issue before the hearing.

22. The Respondent admits that it received a report of Mr. Ronald Yarborough of Geo Technical Associates on July 28, 2003.

23. The Respondent admits that it provided no copy of a final report of "Ralph Yarborough". The Respondent states affirmatively that it placed on file as a matter of record with the Kankakee City Clerk a report of Ronald Yarborough and said report was available to any party who sought the same.

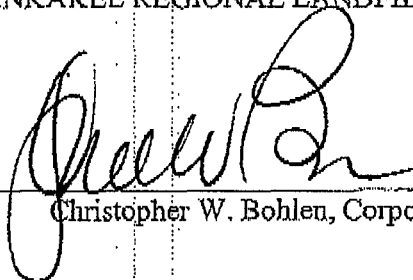
24. The Respondent admits Paragraph 24 of the Request to Admit Facts.

25. The Respondent admits Paragraph 25 of the Request to Admit Facts.

26. The Respondent denies Paragraph 26 of the Request to Admit Facts.

CITY OF KANKAKEE, ILLINOIS CITY COUNCIL
TOWN & COUNTRY UTILITIES, INC., and
KANKAKEE REGIONAL LANDFILL L.L.C.,

By

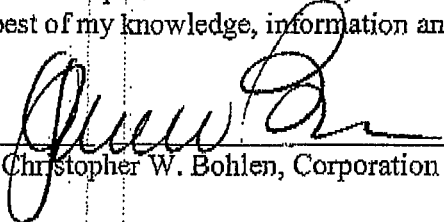


Christopher W. Bohlen, Corporation Counsel

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STATE OF ILLINOIS)
)
COUNTY OF KANKAKEE)

I, CHRISTOPHER W. BOHLEN, being first duly sworn upon oath, deposes and states that I am the Corporation Counsel for the City of Kankakee, I have the authority to act in its behalf, that I have read the foregoing Response to Request to Admit Facts, and the contents therein contained are true and correct to the best of my knowledge, information and belief.


Christopher W. Bohlen, Corporation Counsel

Subscribed and Sworn to before me this

7th day of November, 2003.

Michele Huston
Notary Public



CHRISTOPHER W. BOHLEN
Corporation Counsel
Reg. No. 00244945
385 East Oak Street
Kankakee, IL 60901
(815) 933-0500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BYRON SANDBERG,

Petitioner,

No. PCB 04-33

(Third-Party Pollution Control
Facility Siting Appeal)

THE CITY OF KANKAKEE, ILLINOIS CITY
COUNCIL, TOWN AND COUNTRY UTILITIES,
INC. and KANKAKEE REGIONAL LANDFILL,
L.L.C.

Respondents.

WASTE MANAGEMENT OF ILLINOIS, INC.,

Petitioner,

No. PCB 04-34

(Third-Party Pollution Control
Facility Siting Appeal)

THE CITY OF KANKAKEE, ILLINOIS CITY
COUNCIL, TOWN AND COUNTRY UTILITIES,
INC. and KANKAKEE REGIONAL LANDFILL,
L.L.C.

Respondents.

COUNTY OF KANKAKEE, ILLINOIS and
EDWARD D. SMITH, KANKAKEE COUNTY
STATE'S ATTORNEY,

Petitioner,

No. PCB 04-35

(Third-Party Pollution Control
Facility Siting Appeal)
(Consolidated)

THE CITY OF KANKAKEE, ILLINOIS CITY
COUNCIL, TOWN AND COUNTRY UTILITIES,
INC. and KANKAKEE REGIONAL LANDFILL,
L.L.C.

Respondents.

PETITIONER'S INTERROGATORIES

EXHIBIT

C

Petitioner, Waste Management of Illinois, Inc. ("WMII"), pursuant to the Rules of the Illinois Pollution Control Board, submits the following Interrogatories to the Respondent, CITY OF KANKAKEE, ILLINOIS CITY COUNCIL.

DEFINITIONS

A. "T & C" refers to Town and Country Utilities, Inc. and Kankakee Regional Landfill, L.L.C. and their respective agents, directors, officers, employees, attorneys, representatives and all persons or entities who have acted or purported to act on their respective behalves.

B. "City" refers to City of Kankakee, Illinois and the City of Kankakee City Council, its mayor, departments, elected officials, attorneys, agents, employees and all persons or entities who have acted or purported to act on its behalf.

C. "City Council member" refers to any member of the City of Kankakee City Council, who voted.

D. "Communication" means transmission or exchange of information, facts, opinions, questions, requests, suggestions, results or conclusions between two or more persons or entities, orally or in writing, by any means, including but not limited to meetings, discussions, correspondence, e-mails, facsimile machine, conversations, phone calls, letters, documents or memoranda.

E. The "2002 Siting Application" means T & C's request for site location approval of the Kankakee Regional Landfill located in Otto Township, City of Kankakee, Illinois, filed March 13, 2002.

F. The "2003 Siting Application" means T & C's request for site location approval of

the Kankakee Regional Landfill located in Otto Township, City of Kankakee, Illinois, filed March 7, 2003.

G. "Facility" shall refer to the proposed Kankakee Regional Landfill located in Otto Township, City of Kankakee, Illinois which is the subject of the 2002 and 2003 Siting Applications.

H. "Identify," when referring to a communication, means (1) to state the nature of the communication (*e.g.*, telephone call, letter, meeting), (2) to state the date and time on which the communication occurred, (3) to state each person who participated in the communication, (4) to state each person who did not participate in the communication, but was present during (or otherwise heard) any part of the communication, and (5) to summarize the statements made by each participant in or during the communication.

I. "Refer" or "Relate" with reference to a subject shall mean the following:

- a. Containing, comprising, constituting, stating, setting forth, or recording, contradicting, referring to, relating to or in any way pertaining to, in whole or in part, that subject;
- b. Describing, discussing, reflecting, interpreting, identifying, concerning, contradicting, referring to, relating to, or in any way pertaining to, in whole or in part, that subject.

J. The relevant time period for answering the interrogatories is from January 1, 2003 to the present.

INSTRUCTIONS

Continuing Responses. These interrogatories shall be deemed to be continuing in nature and if, after serving your responses, additional information becomes known or available to you, that is responsive to these interrogatories, then you are required to reasonably supplement or amend your responses.

INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons who provided information regarding or assisted in answering these interrogatories.

ANSWER:

INTERROGATORY NO. 2: Identify all communications of the City that refer or relate to the 2002 Siting Application or the Facility with the following persons:

- (a) T & C.
- (b) Any citizen or member of the public.
- (c) Devin Moose.
- (d) Michael Werthmann.
- (e) Robert Boyd.
- (f) Ralph Yarborough.

ANSWER:

INTERROGATORY NO. 3: Identify all communications of the City that refer or relate to the 2003 Siting Application or the Facility with the following persons:

- (a) T & C.
- (b) Any citizen or member of the public.
- (c) Devin Moose.
- (d) Michael Werthmann.
- (e) Robert Boyd.
- (f) Ralph Yarborough.

ANSWER:

INTERROGATORY NO. 4: If you deny any of the requests to admit (nos. 1 through 26) previously served upon you on October 16, 2003, indicate what you are denying, the factual basis therefor, the source of your information and identify all documents that support your denial.

ANSWER:

INTERROGATORY NO. 5: Please identify each witness you expect to present to testify at hearing, and state the subject of each witness' testimony and identify any document any witness will utilize in his or her testimony.

ANSWER:

INTERROGATORY NO. 6: Please identify each document used or relied upon in preparation of the answers to these interrogatories.

ANSWER:

Dated: October 17, 2003.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

Donald J. Moran
One of Its Attorneys

PEDERSEN & HOUP
161 North Clark Street
Suite 3100
Chicago, IL 60601
(312) 641-6888

AFFIDAVIT OF SERVICE

The undersigned, a non-attorney, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, on oath certifies that a copy of the foregoing was served upon:

Mr. George Mueller
Attorney at Law
501 State Street
Ottawa, IL 61350

Christopher Bohlen
Barmann, Kramer and Bohlen, P.C.
300 East Court Street, Suite 502
P.O. Box 1787
Kankakee, IL 60901

Mr. Byron Sandberg
109 Raub Ave
Donovan IL 60931

Bradley Halloran
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

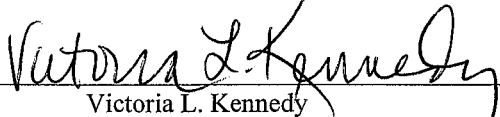
City of Kankakee Clerk
Anjanita Dumas
385 E. Oak Street
Kankakee, IL 60901

Mr. Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105-1389

Edward Smith
Kankakee County State's Attorney
Kankakee County Administration Building
189 East Court Street
Kankakee, Illinois 60901

Claire A. Manning
Posegate & Denes, P.C.
111 N. Sixth Street
Springfield, IL 62705

by facsimile at the number indicated above and by depositing a copy thereof, enclosed in an envelope in the U.S. mail at 161 N. Clark St., Chicago, Illinois 60601, at 5:00 p.m. on this 16th day of October, 2003.


Victoria L. Kennedy

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PATRICK POWER, Assistant City Attorneys, and herewith responds to the Request to Admit as follows:

ANSWER TO INTERROGATORY NO. 1: Christopher W. Bohlen, Corporation Counsel, 385 E. Oak Street, Kankakee, Illinois, 60901.

ANSWER TO INTERROGATORY NO. 2: Respondent objects to this Interrogatory. It seeks information which is not relevant to the current hearing. The Respondent further states that all communications regarding the 2002 Application are a portion of the record of the previous hearing and appeal. However without waiving this objection, Respondent states further that Mr. Robert Boyd received a copy of the transcripts of the hearing of the 2002 Application. In addition, Mr. Tom Volini discussed the appeal of the 2002 Siting Application in an executive session, during which litigation was discussed on February 3, 2003, with the Kankakee City Council.

ANSWER TO INTERROGATORY NO. 3:

(a) None other than on February 3, 2003, the City was notified by Tom Volini of his anticipation that Town & Country would be refiling another Siting Application. In addition, there were telephone conversations between Christopher Bohlen and Tom Volini regarding the establishment of dates for the hearing and more specifically informing Tom Volini of the dates when the City was going to hold the hearings.

(b) Numerous conversations occurred between the members of the public and members of the City Council. Those are too numerous to be identified herein. The conversations involved constitutes either questioning or stating opinions regarding the Application.

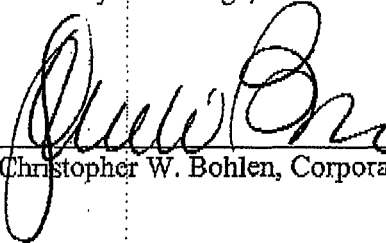
(c) None

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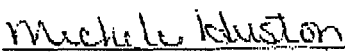
STATE OF ILLINOIS)

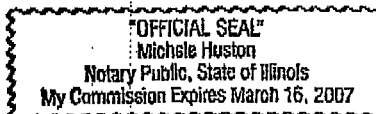
COUNTY OF KANKAKEE)

I, CHRISTOPHER W. BOHLEN, being first duly sworn upon oath, deposes and states that I am the Corporation Counsel for the City of Kankakee, I have the authority to act in its behalf, that I have read the foregoing Response to Request to Admit Facts, and the contents therein contained are true and correct to the best of my knowledge, information and belief.


Christopher W. Bohlen, Corporation Counsel

Subscribed and Sworn to before me this
11th day of November, 2003.


Notary Public



CHRISTOPHER W. BOHLEN
Corporation Counsel
Reg. No. 00244945
385 East Oak Street
Kankakee, IL 60901
(815) 933-0500