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STATE OF ILLINOIS
Pollution Control Board

THE ILLINOIS POLLUTION CONTROL BOARD

CITIZENS AGAINST LANDFILL)	
EXPANSION (CALE),)	
)	
Petitioner,)	
)	
v.)	PCB 03-236
)	(Pollution Control Facility
AMERICAN DISPOSAL SERVICES OF)	Siting Appeal)
ILLINOIS, INC., and LIVINGSTON)	
COUNTY BOARD,)	
)	
Respondents.)	

RESPONDENT AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.'S
MOTION TO COMPEL ANSWER TO INTERROGATORY

Now comes Respondent American Disposal Services of Illinois, Inc. ("American"), by and through one of its attorneys, Douglas E. Lee of Ehrmann Gehlbach Badger & Lee, and, pursuant to Section 101.616 of the Rules of the Illinois Pollution Control Board, moves the Hearing Officer for entry of an Order compelling Petitioner to fully respond to Interrogatory No. 20 previously propounded by American ("the Interrogatory"). In support thereof, American states as follows:

1. In the Interrogatory, American asked Petitioner to "[i]dentify each witness who you will call to testify at the hearing on the Petition and state the subject of each witness' testimony."
2. Petitioner objected to the Interrogatory, asserting the work product doctrine. Neither the identities of expected witnesses nor the subjects of their testimony, however, are protected by the work product doctrine. Indeed, the Hearing Officer already has ordered that all parties disclose their witnesses by 10 a.m. on September 2, 2003.
3. As set forth in Section 101.616 of the Board's Rules, "the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance where the Board's procedural rules are silent." While the Board's rules are silent as to whether parties must, when requested, state the subjects of expected witnesses' testimony, Illinois Supreme Court Rule 213(f)(1) indisputably

requires that such information be provided: "For each lay witness, the party must identify the subjects on which the witness will testify. An answer is sufficient if it gives reasonable notice of the testimony, taking into account the limitations on the party's knowledge of the facts known by and opinions held by the witness."

4. Such disclosure is especially important in cases like this one, in which the parties are required to complete significant discovery in a relatively short period of time. Petitioner's full response to the Interrogatory will enable American to determine which, if any, of the identified witnesses it wishes to depose, promote the efficient preparation of this case, and prevent unfair surprise.

5. For all of the foregoing reasons, American respectfully requests the Hearing Officer to enter an Order requiring Petitioner to fully respond to the Interrogatory.

Respectfully submitted,

AMERICAN DISPOSAL SERVICES OF ILLINOIS,
INC., Respondent

By EHRMANN GEHLBACH BADGER & LEE

By



Douglas E. Lee

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FAX TRANSMISSION COVER SHEET

Date: August 26, 2003

To: Bradley P. Halloran, Hearing Officer

Fax: 1-312-814-3669

Re: Livingston County Landfill - Motion to Compel

Sender: Douglas E. Lee/cke

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