

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

Amend

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AUG 27 2003

STATE OF ILLINOIS
Pollution Control Board

Citizens Against Landfill Expansion,)
Petitioners)
v.)
American Disposal Services of Illinois, Inc.)
Respondent,)
and)
Livingston County Board, Livingston County,)
Illinois, Respondent)

No. PCB 03-236

Bradley Halloran,
Hearing Officer

**PETITIONER'S RESPONSE TO AMERICAN
DISPOSAL'S MOTION TO COMPEL**

Petitioner Citizens Against Landfill Expansion, an unincorporated association of residents of Livingston County (hereinafter "Petitioner" or "CALE"), through its attorney Carolyn K. Gerwin, hereby responds to Respondent American Disposal Services of Illinois, Inc.'s ("American Disposal's") Motion to Compel. Petitioner maintains that it is premature for Petitioner to designate witnesses when Respondents have failed to answer interrogatories and have not produced the documents requested. Moreover, Respondent County Board has not responded to the interrogatory that would have clarified the facts relating to CALE's requests for admissions. As the Hearing Officer stated in the conference status call of August 25, 2003, after the Motions to Compel have been ruled upon, and upon completion of that phase of discovery, the parties will designate witnesses. American Disposal has already requested scheduling of depositions of CALE's key representatives, and the CALE and American Disposal are proceeding to make arrangements in that regard. Thus, there is no prejudice to American Disposal in following the traditional order of discovery, i.e., evaluation of responses prior

to identification of witnesses. On the other hand, it is burdensome to CALE to have to identify witnesses without at least substantial compliance with CALE's discovery requests.

In addition, CALE has identified the citation of the PCB opinion confirming the relevance of pre-filing contacts as County of Kankakee v. City of Kankakee, 2003 WL 137451 (Ill. Pol. Control Bd. January 9, 2003).

Respectfully submitted,

Carolyn K. Gerwin, Attorney at Law
Counsel for Citizens Against Landfill Expansion

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2003, I electronically transmitted the foregoing PETITIONER'S RESPONSE TO AMERICAN DISPOSAL'S MOTION TO COMPEL to:

Brad Halloran
Douglas E. Lee
Larry M. Clark
Claire Manning
George Mueller
C. Thomas Blakeman

With a hard copy by U.S. Mail to:

Brad Halloran, Hearing Officer
Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
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Douglas E. Lee
Ehrmann, Gehlbach, Badger & Lee
215 E. First Street, Suite 100
P.O. Box 447
Dixon, Illinois 61021

Larry M. Clark
Suite 200
700 North Lake Street
Mundelein IL 60060

Furthermore, on August 27, 2002, I have sent an original and four copies of (1) PETITIONER'S RESPONSE TO AMERICAN DISPOSAL'S MOTION TO COMPEL; (2) PETITIONER'S MOTION TO COMPEL LIVINGSTON COUNTY BOARD and (3) PETITIONER'S MOTION TO COMPEL AMERICAN DISPOSAL by first class mail, postage prepaid, to

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

Carolyn K. Gerwin