

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

WASTE MANAGEMENT OF ILLINOIS, )	
INC., )	
	)
Petitioner, )	
	)
v. )	PCB 2025-002
	) (Permit Appeal – Land)
ILLINOIS ENVIRONMENTAL )	
PROTECTION AGENCY, )	
	)
Respondent. )	

**PETITIONER WASTE MANAGEMENT OF ILLINOIS, INC.’S MOTION FOR SUMMARY JUDGMENT**

Petitioner, Waste Management of Illinois, Inc. (“WMI”), pursuant to Section 101.516 of the Illinois Pollution Control Board’s Procedural Rules, 35 Ill. Admin Code 101.516, hereby moves the Board for a grant of summary judgment in its favor and against Respondent, the Illinois Environmental Protection Agency (“IEPA”). There are no genuine issues of material fact in this case. WMI is entitled to an order requiring IEPA to issue a permit authorizing it to accept leachate from Peoria City-County Landfill No. 2 (“PCC #2”) at its leachate evaporator located at the Prairie Hill Landfill (“Prairie Hill”). In support of its motion, WMI states as follows:

**I. INTRODUCTION**

On June 18, 2024, IEPA denied WMI’s application to process leachate from another WMI landfill (PDC # 2 in Peoria) at WMI’s Prairie Hill leachate evaporator. The sole basis for the IEPA’s denial was that in accepting leachate from another WMI landfill the evaporator became a “new pollution control facility” requiring local siting approval. IEPA’s denial of WMI’s application is erroneous for three separate reasons:

1. Section 3.330(a)(3) of the Act provides that a waste generator’s management of its own waste is exempt from the requirements applicable to pollution control facilities. It is undisputed that WMI operates Prairie Hill, the evaporator, and PCC #2. WMI is entitled to store, treat or dispose of leachate from PCC #2, and may

transfer the leachate between its facilities, without becoming a new pollution control facility requiring local siting approval.

2. WMI already has local siting approval to dispose of leachate from any source at the evaporator. WMI may accept leachate from any source at the evaporator and it would not become a “new” pollution control facility under Section 3.330(b)(3). Pollution control facilities are only “new” under that section if they have never managed any type of special waste before. Prairie Hill is already permitted to accept special waste and has been managing special waste since 2015. The Act gives local governments the authority to assess whether a site satisfies the siting criteria for special waste only when it is initially developed or expanded. Re-siting is not required when a special waste landfill seeks to manage a different type of special waste or manage special waste in a different manner, much less where, as here, it is seeking only to accept special waste from a different source. Siting concerns the location of the facility and whether it is a special or hazardous waste facility. Siting is not required every time a permitted facility receives authorized waste from a different source.
3. Under Section 39 of the Act, IEPA may require local siting approval as a condition of development or construction permits. But WMI is only seeking a modification to its operating permit.

Accordingly, IEPA’s denial of the permit was unlawful and the Board should order that the permit be issued.

## **II. UNDISPUTED FACTS**

On April 30, 1992, WMI filed an application for local siting approval with Whiteside County for a non-hazardous waste landfill for the site where Prairie Hill is now located. (*See* Joint Stipulation of Facts and Documents (“JSFD”), ¶ 2). Whiteside County conducted public hearings on the application on July 30 and July 31, 1992. (*Id.* ¶ 3). By resolution dated September 15, 1992, the County Board of Whiteside County found that the facility satisfied the Section 39.2 criteria for siting of a pollution control facility. (*Id.* ¶ 4). IEPA issued WMI a solid waste landfill permit authorizing the development of Prairie Hill on July 10, 1995. (*Id.* ¶ 5). The landfill was designed to accept and manage special waste. (*See* Permit No. 1994-579-LF, Modification No. 87, August 12, 2015 (Exhibit B to JSFD.))

In August 2015, Whiteside County amended the local siting approval to remove a condition that had barred WMI from accepting special wastes for disposal at Prairie Hill. (JSFD, ¶ 7). That same month, IEPA issued a modification to Prairie Hill's operating permit which authorized WMI to accept non-hazardous special waste that is either industrial process waste or pollution control waste. (*Id.* ¶ 8). Prairie Hill is permitted to accept non-hazardous special waste and currently accepts special waste. (*See* Permit No. 1994-579-LF, Modification No. 121, August 16, 2024, Part III (p. 18) (Exhibit E to JSFD.))

In February 2019, IEPA Bureau of Air issued WMI a permit authorizing the construction of a leachate evaporator at Prairie Hill. (JSFD, ¶ 9). WMI submitted an application to IEPA Bureau of Land in December 2019 seeking a modification of the facility's operating permit to allow for the installation of the evaporator. (*Id.* ¶ 10). IEPA granted that application through a permit modification in 2020. (*Id.* ¶ 11). IEPA modified Prairie Hill's operating permit again in February 2023 to approve the operation of the evaporator. (*Id.* ¶ 12). The evaporator is permitted to dispose of 40,000 gallons of leachate per day. (*See* Permit No. 1994-579-LF, Modification No. 121, August 16, 2024, Section V.12 (P. 34) (Exhibit E to JSFD.)) Prairie Hill currently generates approximately 20,000 gallons of leachate per day, which is disposed of in the evaporator. (JSFD, ¶ 16).

WMI also controls and is the permitted operator of PCC #2, a municipal solid waste landfill located in Peoria County, Illinois. (*Id.* ¶ 17). Prior to December 2023, PCC #2 was outside of the service area from which Prairie Hill is allowed to collect waste pursuant to the host agreement between WMI and Whiteside County. On December 6, 2023, however, WMI and Whiteside County amended the host agreement to expand Prairie Hill's service area to include Peoria County. (Fifth Amendment to Agreement, Nov. 5, 2023, Exhibit 1, hereto.) On January 12, 2024, WMI submitted an application to IEPA requesting a permit to allow it to accept leachate

from PCC #2 at the Prairie Hill evaporator. (JSFD, ¶ 18). The permit application did not request an increase in the permitted capacity of the evaporator or any other changes to the operation of the evaporator. (*Id.* ¶ 19).

IEPA denied the permit application by letter dated June 18, 2024. The sole reason stated by IEPA for the denial was that:

The Illinois Environmental Protection Act (Act), Section 3.330(b)(3) states that a new pollution control facility is “a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.” Prairie Hill Landfill is proposing using a treatment facility (leachate evaporator) that would be accepting leachate, which is a special waste, from other facilities for the first time. Therefore, proof of local siting approval for a new treatment facility, granted by the County of Whiteside, shall need to be submitted to the Illinois EPA before the leachate evaporator can be approved.

(*Id.* ¶ 20).

### **III. STANDARD OF REVIEW**

The Board will grant summary judgment “[i]f the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law.” 35 Ill. Admin. Code 101.516(b). A petitioner challenging IEPA’s denial of a permit has the burden of proof to demonstrate that it is entitled to the permit. *ESG Watts, Inc. v. Pollution Control Bd.*, 286 Ill. App. 3d 325, 331 (3rd Dist. 1997). Where, as here, however, the dispute turns solely on a disagreement over the proper interpretation of the Act, IEPA is entitled to no deference. *Atkinson Landfill Co.*, Ill. Pollution Control Bd. Op. 13-8, at 8 (June 20, 2013) (“The Board’s decision, in this case, hinges on the interpretation of Section 39.2(f) of the Act. Therefore, as in SCLI, the Board will consider the Agency’s arguments on statutory construction, but the Agency’s arguments are not considered with any greater or lesser weight than [petitioner’s] arguments.”)

Under Section 39(a) of the Act, IEPA has a duty to issue a permit unless the proposed activity would cause a violation of the Act. If the applicant demonstrates that it would not, IEPA has no discretion to deny the application. Furthermore, IEPA's denial letter "frames the issue in a permit appeal," and thus the issue for the Board to determine is limited to the one basis IEPA provided for denying the permit. *See ESG Watts, Inc.*, 286 Ill. App. 3d at 335. Accordingly, the Board must order IEPA to grant the permit unless it finds that IEPA correctly interpreted the Act and that WMI is seeking a permit for the "development or construction of a new pollution control facility" for which siting has not already been granted by Whiteside County. For the reasons stated below, IEPA's denial is inconsistent with Sections 3.330(a)(3), 3.330(b)(3), and 39(c) of the Act. Accordingly, WMI is entitled to have the permit issued.

#### **IV. ARGUMENT**

##### **A. WMI's Permit Application Is Not For A "Pollution Control Facility."**

WMI's permit application requests only to transport leachate generated by PCC #2, a landfill which WMI operates, for disposal at the Prairie Hill evaporator, which WMI also operates. IEPA's denial of the application was improper because local siting approval is not required for waste generated by a person's own activities. Pursuant to Section 3.330(a)(3) of the Act, 415 ILCS 5/3.330(a)(3), sites for such activities are exempt because they are specifically excluded from the definition of pollution control facility.

Under Section 3.330(a)(3), the following are not pollution control facilities:

sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, *or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person*"

(emphasis added). The undisputed facts establish each element of the exemption. WMI is a “person” under 415 ILCS 5/3.315 (defining “person” to include “company, limited liability company, [or] corporation.”). The evaporation of leachate constitutes “waste storage, waste treatment, waste disposal...or a combination thereof.” *See* 415 ILCS 5/3.480 (defining storage); 415 ILCS 5/3.505 (defining treatment); 415 ILCS 5/3.185 (defining disposal)<sup>1</sup>. WMI is the permitted operator of the evaporator and is therefore the person “using” it.

The leachate from PCC #2 is also generated by WMI’s “own activities.” Waste is generated by a company’s own activities if it is generated at a facility the company operates. *See American Tree Service*, Ill. Pollution Control Bd. Op. 94-43, at 12 (Dec. 14, 1994); *see also Envirite Corp. v. Illinois E.P.A.*, 158 Ill. 2d 210 (1994) (holding that hazardous waste treatment facility, not original generator of the hazardous waste, is the generator of the waste that results from the treatment process). Landfill leachate is generated by the landfill from which it is removed. Leachate is “liquid that has been or is in direct contact with a solid waste.” 35 Ill. Admin. Code 810.103. This liquid enters a landfill as precipitation, which is not waste. It only becomes waste within the landfill. It is well-settled law that a landfill operator is the generator of leachate produced by the landfill. *See* Land Disposal Restrictions for Third Third Scheduled Wastes, 55 Fed. Reg. 22,520, 22,620 (June 1, 1990) (“[M]ulti-source leachate is a distinct type of waste different from the underlying wastes from which it is derived”); Letter from John H. Skinner, Dir., Office of Solid Waste, EPA, to N.C. Vasuki, Gen. Manager, Del. Solid Waste Auth. (Oct. 21, 1983) (RO 12149) (available at <https://rcrapublic.epa.gov/files/12149.pdf>) (“If [Municipal Solid

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<sup>1</sup> WMI’s application stated that it intends to use the evaporator to “dispose” of leachate. In its denial letter, IEPA characterized the evaporator as “treating” leachate. Whether leachate evaporation is disposal, treatment, storage, or some combination of the three is not relevant for the resolution of this motion.

Waste Landfill] leachate is a hazardous waste by any of these definitions, the landfill becomes a hazardous waste generator.”); *See also City of Chicago v. Env't Def. Fund*, 511 U.S. 328, 336 (1994) (finding that municipal waste incinerator is the generator of the ash created by the incineration process).

Transporting leachate between two WMI-operated facilities does not take the evaporation of the leachate outside of the Section 3.330(a)(3) exemption. Section 3.330(a)(3) specifically applies to waste “transported within or between sites or facilities owned, controlled or operated by [the facility operator].” WMI controls and operates all facilities that will be involved in the generation and disposal of leachate from PCC #2.

Because the activities WMI is seeking to permit are exempt from the requirements for pollution control facilities, IEPA cannot require proof of local siting approval and it lacked authority to deny the application.

**B. Accepting Off-Site Leachate Will Not Create a “New” Pollution Control Facility.**

IEPA’s denial of the permit was improper for the additional reason that WMI already has the only siting approval needed to manage PCC #2 leachate at the evaporator. Under Section 39(c) of the Act, 415 ILCS 5/39(c), IEPA may only require proof of local siting approval for a “permit for the development or construction of a *new* pollution control facility.” (emphasis added). Leaving aside that that application does not concern a pollution control facility at all, it is also not for a “new” pollution control facility. Section 3.330(b)(3) defines new pollution control facility, in relevant part, as: “a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, *for the first time*, any special or hazardous waste.” (emphasis added).

By its plain terms, Section 3.330(b)(3) does not encompass the activities WMI is seeking to permit. WMI is not “requesting approval to...dispose of..., for the first time, any special or

hazardous waste.”<sup>2</sup> WMI has been permitted by IEPA to dispose of special waste at Prairie Hill since 2015. It has also been approved by Whiteside County to dispose of special waste at Prairie Hill since that same year. Furthermore, WMI has been permitted by IEPA to use the evaporator to dispose of the specific type of special waste that is the subject of the application—municipal solid waste landfill leachate—since 2023. Because WMI is not seeking to manage special waste for the first time, Section 3.330(b)(3) is inapplicable, even if the evaporator were a “pollution control facility” (which is denied).

When the Board and Illinois courts have considered the scope of 3.330(b)(3), they have reached the same conclusion. Under controlling precedent, once Whiteside County and IEPA authorized Prairie Hill to accept special waste in 2015, the facility could not become a “new” pollution control facility under that subsection. From the time a pollution control facility is granted approval to manage special waste, it becomes and remains a special waste facility. It cannot later become a “new” pollution control facility again by managing a different type of special waste or managing special waste in a different way. Certainly a facility does not become a “new” pollution control facility—and does not need to seek re-siting from the local siting authority—every time it applies for a permit to manage a special waste from a different source.

This understanding of Section 3.330(b)(3) was first recognized by the Board in *Waste Management of Illinois, Inc., A Delaware Corporation, Petitioner v. Board of Supervisors of Tazewell County, Respondent*, Ill. Pollution Control Bd. Op. 82-55 (August 5, 1982). There, the Board reasoned that “[s]ince special and hazardous wastes are defined groups, [Section

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<sup>2</sup> IEPA’s denial letter characterizes WMI as applying to “treat” leachate in the evaporator. Section 3.330(b)(3) does not apply to facilities requesting approval to “treat” waste, only facilities requesting approval to “store, dispose of, transfer or incinerate” certain waste. In its application, WMI stated that it is seeking a permit to dispose of leachate at the evaporator. WMI understands that disposal is the waste management activity at issue in this dispute.

3.330(b)(3)]<sup>3</sup> require[s] approval by local authorities *only* when it is proposed to accept a special or hazardous waste *in a facility that has never handled such waste in any form previously.*”

(emphasis added). *Id.* at 8. The Board went on to explain:

This means that the local authorities would have a chance to review the site with respect to the special or hazardous wastes only once and not each time a new special or hazardous waste stream permit was requested. The logic of this interpretation seems obvious since to allow the local authorities review each new waste stream would virtually paralyze the system with respect to special and hazardous wastes and would anticipate the ability of the local authorities to differentiate between individual types of non-hazardous special and hazardous special wastes, a highly detailed and technical consideration.

*Id.*

Two Illinois appellate courts have also concluded that local siting approval is only required when a facility first becomes a special or hazardous waste facility, and not when it seeks to accept different types of special or hazardous waste, or accept waste from different sources. *Browning-Ferris Indus., Inc. of Iowa v. Illinois Pollution Control Bd.*, 127 Ill. App. 3d 509 (3d. Dist. 1984), concerned a landfill that was issued a development permit in August 1981, prior to Section 39.2 becoming effective, and thus the landfill did not need or request local siting approval when it was first developed. *Id.* at 509. The initial permit authorized the site “to handle general refuse excluding all hazardous wastes,” and specifically prohibited the landfill from accepting wastewater or water treatment sludges. *Id.* at 510. In 1983, the landfill sought permits to accept two specific special waste streams, including a wastewater sludge. IEPA contended that the permits would have rendered the landfill a new pollution control facility under Section 3.330(b)(3)<sup>4</sup> because the facility had not previously been permitted to accept those specific types of special waste. The court disagreed. It found instead that although the original permit prohibited certain types of special

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<sup>3</sup> Section 3.330(b)(3) was previously Section 3(x)(3) and is referred to as such in this opinion.

<sup>4</sup> *Id.*

waste, it “implicitly approve[d] the site’s ability to handle special waste while not explicitly permitting a particular stream.” *Id.* at 511. Accordingly, the application did not trigger 3.330(b)(3) and IEPA could not require local siting approval as a condition for the permit. Here, WMI is *explicitly* sited and permitted to accept and dispose of special wastes. The same conclusion—that IEPA cannot require local siting approval before issuing the permit—is required here as well.

The court in *Sierra Club v. Illinois Pollution Control Bd.*, 403 Ill. App. 3d 1012 (3d Dist. 2010), vacated on other grounds, 2011 IL 110882, also rejected the interpretation of Section 3.330(b)(3) that IEPA is advancing in this case. In *Sierra Club*, a hazardous waste treatment facility was seeking delisting of the residue from its treatment of electric arc furnace dust, a type of hazardous waste that it had not previously accepted or managed in any way. The Sierra Club argued that the facility would become a “new” pollution control facility because it would be accepting a new type of hazardous waste from new sources. The court found that siting was not required because the permittee “is not asking to deal with special or hazardous waste for the first time. The facility is already permitted to and does treat hazardous waste.” *Id.* at 1022. IEPA’s permit denial cannot be reconciled with this decision either.

By denying WMI’s permit application, IEPA is trying to stretch 3.330(b)(3) even further than the interpretations that were rejected in *Tazewell County, Browning-Ferris Indus., Inc. of Iowa*, and *Sierra Club*. Not only is Prairie Hill already permitted for special waste generally, but WMI is already authorized to dispose of the exact same type of special waste (municipal solid waste landfill leachate), from the same generator (WMI), at the evaporator. 3.330(b)(3) cannot plausibly be read to apply to these facts. It is telling that in IEPA’s letter denying the permit application, it added a clause to Section 3.330(b)(3) to describe it as applying to WMI’s application. The letter asserts that local siting is required because “Prairie Hill is proposing using

a treatment facility (leachate evaporator) that would be accepting leachate, which is a special waste, *from other facilities* for the first time.” (emphasis added). The phrase “from other facilities” does not appear in Section 3.330(b)(3). When determining when local siting should be required under that section, the General Assembly did not make the facility at which the special or hazardous waste is generated a relevant consideration. To the contrary, the legislature made clear that the exemption in Section 3.330(a)(3) for a generator’s management of its own waste applies irrespective of whether the management occurs at the generating facility or if the waste is transferred between facilities. In sum, IEPA’s reason for denying this permit is contrary to the terms of the Act and Board and court decisions interpreting it, and should be rejected.

IEPA’s overly expansive interpretation of Section 3.330(b)(3) is also unnecessary to accomplish the Act’s purposes. The legislature added the local siting requirement to ensure that local governments have “a limited degree of control over new solid waste disposal sites within their boundaries.” *M.I.G. Invs., Inc. v. E.P.A.*, 122 Ill. 2d 392, 398 (1988). The objective was “to avoid having a regional authority (the Agency) in a position to impose its approval of a landfill site on an objecting local authority.” *E & E Hauling, Inc. v. Pollution Control Bd.*, 107 Ill. 2d 33, 42 (1985). But local governments have sufficient influence over waste facilities without requiring re-siting for every new special waste stream a landfill seeks to accept. Whiteside County granted local siting approval for Prairie Hill before the facility was constructed. The siting approval initially included a prohibition on the acceptance of special waste but the County subsequently determined that it was better served by removing that condition. If Whiteside County had wanted to restrict the types of special waste that could be accepted by Prairie Hill it could have (as long as those limits were consistent with the scope of its siting approval authority under Section 39.2). It decided not to.

Furthermore, in this particular case, Whiteside County took affirmative steps to facilitate the acceptance of PCC #2 leachate at Prairie Hill. Whiteside County amended its host agreement with WMI to remove what would have been a contractual barrier to bringing leachate from PCC #2 to Prairie Hill. (*See* Exhibit 1 hereto). Although this is not, in strict legal terms, relevant to the dispute before the Board, it is notable that Whiteside County is not opposed to this permit. Whiteside County also does not need—and apparently does not want—IEPA to require it to take up the issue of this single waste stream in a local siting proceeding.

**C. Additional Local Siting Approval is Not Required Under the Plain Terms of Section 39 of the Act.**

IEPA’s assertion that re-siting of the facility is required now also cannot be squared with Section 39 of the Act, which is the only basis for requiring local siting as a prerequisite to issuing a permit. Section 39(c) requires proof of local siting approval only before IEPA may grant a “permit for the *development or construction* of a new pollution control facility.” (emphasis added). Section 39(c) does not, in contrast, require proof of local siting approval before IEPA may issue a permit for the *operation* of a pollution control facility. The legislature omitted such permits from subsection (c) despite providing in subsection (a) that Section 39 lays out the procedures for issuing permits for “construction, installation, *or operation* of any type of facility[.]” 415 ILCS 5/39(a) (emphasis added).

WMI is not seeking a permit to develop or construct anything. It is only seeking modification of its operating permit. *See* January 12, 2024 Application to Accept Offsite Leachate for Disposal in Leachate Evaporator (Exhibit F to JSFD).<sup>5</sup> Prairie Hill and the evaporator have

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<sup>5</sup> WMI’s application included, among other documents, form LPC-PA3, “Application for a Solid Waste Management Permit to Develop Treatment and/or Storage Facilities.” That IEPA form, however, recognizes that a development permit application is only required for applicants that are “requesting a permit to develop a new solid waste treatment, storage incineration, recycling, or land treatment site or requesting a permit for the first time for such a facility[.]” IEPA recommends

already been developed and constructed. After issuance of the permit the evaporator will continue to operate with the same permitted capacity. *Id.* The Board must give effect to the legislature's decision not to require local siting approval as a condition for issuance of operational permits. *See Aurora Pizza Hut, Inc. v. Hayter*, 79 Ill. App. 3d 1102, 1105–06 (1979) (“An elementary canon of statutory construction teaches us that where the legislature uses certain words in one instance, and different words in another, different results were intended.”); *see also Illinois Env't Prot. Agency v. Illinois Pollution Control Bd.*, 2018 IL App (4th) 170144, ¶ 41 (“There is no statutory language indicating local siting approval is necessary for the inner workings of an operating pollution control facility.”)

Similarly, the siting approval required by subsection (c) is the approval of the “location of the facility.” The location of Prairie Hill has already been sited. WMI is not seeking to change or expand the area where any waste management activities occur. Accordingly, local siting approval is not required under the plain terms of Section 39 for the permit WMI is seeking. The language of Section 39 also informs the interpretation of Section 3.330(b)(3) and provides further support for the conclusion that accepting leachate from PCC #2 at the evaporator will not create a “new” pollution control facility.

## V. CONCLUSION

For the reasons stated above, the Illinois Environmental Protection Agency improperly denied the application of Waste Management of Illinois, Inc. for a permit to accept leachate from Peoria City-County Landfill No. 2 for disposal at its Prairie Hill leachate evaporator. The Illinois

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that in other circumstances applicants use the form for guidance, but acknowledges on the form that it is not required. The form therefore affirms that WMI's application is not for “development.”

Pollution Control Board should reverse the denial and order the Illinois Environmental Protection Agency to issue the permit.

Dated: March 27, 2025

Respectfully submitted,

/s/ Philip L. Comella

Philip L. Comella

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COUNSEL FOR WASTE MANAGEMENT  
OF ILLINOIS, INC.

# **Exhibit 1**

FIFTH AMENDMENT TO AGREEMENT 11-2023-5

This Fifth Amendment to Agreement is entered this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between Waste Management of Illinois, Inc. ("WMII") and the County of Whiteside, Illinois (County).

*WHEREAS, WMII and County are parties to an Agreement entered on the 19<sup>th</sup> day of March, 1992 ("Agreement") regarding the solid waste landfill that was developed by WMII and is now operating in Whiteside County known as the Prairie Hill Recycling and Disposal Facility; and,*

*WHEREAS, said Agreement was amended on the 21<sup>st</sup> day of January, 1997 ("First Amendment") in order to formally identify an initial service area, to approve an expanded service area, and to describe other covenants and obligations related to these service areas; and,*

*WHEREAS, WMII has requested County to include Peoria and Tazwell Counties, Illinois, in the initial service area; and,*

*WHEREAS, County has re-analyzed the terms of the Agreement and First Amendment in the consideration of WMII's request, and is agreeable to said request.*

*THEREFORE, in consideration of the mutual covenants of the parties herein contained, the parties mutually agree to enter into this Fifth Amendment to Agreement ("Fifth Amendment")*

Section 1. The Initial Service Area, as set forth in the First Amendment, is hereby amended and expanded to include Peoria and Tazwell Counties, Illinois as shown on Attachment A. Upon the effective date of this Fifth Amendment to Agreement, all interpretations of the Agreement, the First Amendment and the Fifth Amendment, in regards to the Initial Service Area, unless subsequently modified, shall include Kane County, Illinois.

Section 2. This Amendment shall become effective January 1, 2024.

Section 3. WMII shall be responsible for any and all requirements, if any, related to all governmental regulations affected by this Fifth Amendment.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their legal and authorized representatives to be affixed hereto on the day and year indicated at the beginning of this Fifth Amendment.

WASTE MANAGEMENT OF ILLINOIS, INC.

By: Mike Wiersema

Printed Name: Mike Wiersema

Title: Area Disposal Manager

COUNTY OF WHITESIDE

By: Martin Koster

Printed Name: Martin Koster

Title: Chair, Whiteside County Board

Attest: Dana Nelson  
Dana Nelson, County Clerk

MEMORANDUM OF UNDERSTANDING

This memorandum is intended to memorialize the agreement between WHITESIDE COUNTY, ILLINOIS ( hereinafter referred to as "Whiteside" ) and WASTE MANAGEMENT of ILLINOIS, INC. ( hereinafter referred to as "Waste Management" ) with regard to mutually agreed upon revisions to the terms of the original Agreement entered on the 19th day of March, 1992.

- I. GUARANTEED HOST FEE: For a three year period beginning January 1, 2024 and ending December 31, 2026, if total annual out-of-county waste volume remains below 301,200 tons the guaranteed host fee shall applied to all out-of-county waste(i.e. The total of both the initial service area and the expanded service area).
- II. HEALTH DEPARTMENT INSPECTIONS: For a three year period beginning January 1, 2024 and ending December 31, 2026, if total annual out-of-county waste volume remains below 301,200 tons Whiteside County shall waive all fees for inspections performed by the Whiteside County Health Department of the PRAIRIE HILL RECYCLING and DISPOSAL FACILITY.
- III. CONNECTION TO LEACHATE EVAPORATOR: Waste Management shall allow leachate from Whiteside County Landfill #2 (Closed) to be evaporated using their Leachate Evaporator at no cost.
- IV. REVENUE SHARING REGARDING USE OF METHANE GAS: Waste Management shall negotiate in good faith with Whiteside County revenue sharing regarding any future profits from the use of the methane gas produced by the PRAIRIE HILL RECYCLING and DISPOSAL FACILITY.
- V. REPRESENTATIVES OF THE RESPECTIVE PARTIES:

FOR WHITESIDE: Mr. Martin Koster  
County Board Chairman  
Whiteside County, Illinois  
Morrison, Il 61270

FOR WASTE MANAGEMENT: Mr. Mike Wiersema  
District Manager  
Waste Management of Illinois, Inc.  
18762 Lincoln Rd.  
Morrison, Il 61270

This Memorandum of Understanding is entered into by and between the parties hereto this 6<sup>th</sup> day of December, 2023.

WHITESIDE COUNTY, IL  
"Whiteside"

WASTE MANAGEMENT of ILLINOIS, INC.  
"Waste Management"

BY: Martin Koster

BY: Mike Wiersema

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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)	(Permit Appeal – Land)
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PROTECTION AGENCY, )	
)	
Respondent. )	

**NOTICE OF FILING**

To: Brad Halloran, Hearing Officer	Elizabeth Dubats
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PLEASE TAKE NOTICE that I have today, March 27, 2025, filed with the Office of the Clerk of the Pollution Control Board Petitioner Waste Management of Illinois, Inc.’s Motion for Summary Judgment and parties’ Joint Stipulation of Facts and Documents, copies of which are herewith served upon you.

/s/ Ryan G. Rudich  
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