

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS, INC.)	
)	
)	
Petitioner,)	PCB No. 2025-002
)	
v.)	(Permit Appeal - Land)
)	
ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Attached Service List Via Email

PLEASE TAKE NOTICE that on April 17, 2025, I caused to be filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing Respondent Illinois Environmental Protection Agency's Response in Opposition to Petitioner's Motion for Summary Judgment, attached and hereby served upon you.

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CERTIFICATE OF SERVICE

I, Justin Bertsche, an Assistant Attorney General, hereby certify that on the 17th of April 2025, I caused to be served the foregoing Notice of Electronic Filing and Respondent's Response in Opposition to Petitioner's Motion for Summary Judgment, upon the parties named on the attached Service List via email.

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**RESPONDENT’S RESPONSE IN OPPOSITION TO
PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

Until now, Waste Management’s Prairie Hill landfill and Leachate Evaporator have avoided local siting for facilities accepting special waste for the first time through narrow statutory exceptions to the definition of pollution control facility. Those exceptions are for facilities generating waste on-site, 415 ILCS 5/3.330(a)(3), and a facility-specific carve-out allowing Prairie Hill landfill to accept special waste without local siting approval, 415 ILCS 5/3.330(a)(24). Now Waste Management contends that it should be allowed to dispose of and treat off-site generated leachate at its Leachate Evaporator and attempts to create a new exception to the definition of pollution control facility through misinterpretations of Sections 3.330 and 39 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/3.330 and 39 (2022). But Waste Management’s misinterpretations of the Act hold no water. The Leachate Evaporator is itself a pollution control facility within the meaning of Section 3.330(a) of the Act, 415 ILCS 5/3.330(a), and the on-site generation exception is inapplicable if Waste Management disposes of and treats off-site generated leachate at the Leachate Evaporator. Further, the Leachate Evaporator is a new pollution control facility because, until now, the Leachate Evaporator has accepted leachate under the shield of the on-site generation exception. Now that the on-site generation exception no longer applies, Waste

Management sought approval for its Leachate Evaporator to accept off-site generated leachate for the first time *as a pollution control facility*. Finally, Waste Management's selective reading of Section 39 of the Act fails to account for the definition of a new pollution control facility, which covers not only newly constructed or developed facilities, but also existing facilities that seek certain modifications, including accepting special waste for the first time. Moreover, Waste Management cannot avoid Section 39.2 of the Act's, 415 ILCS 5/39.2 (2022), local siting requirements simply by limiting its Leachate Evaporator development permit to on-site generated leachate and then seeking to modify its operating permit to accept off-site generated leachate.

Waste Management's interpretation of the Act is faulty statutory construction and even worse public policy. Waste Management's reading of the Act creates a gaping hole which allows facilities to skirt mandatory local siting approval simply by first generating any special waste on-site. The plain language of Section 3.330 makes clear that Waste Management has run out of exceptions. *Will Cty. v. Vill. Of Rockdale*, 2018 IL App (3d) 160463, ¶42 (citing *Petersen v. Wallach*, 198 Ill. 2d 439 (2002)) ("Furthermore, we will not misinterpret the statute by reading into it exceptions, limitations, or conditions that the legislature did not express"). Illinois EPA cannot grant a permit that would result in a violation of the Act. 415 ILCS 5/39(a). To successfully appeal Illinois EPA's permit decision on a motion for summary judgment the "Board must determine that as a matter of law [the petitioner] has proven that the application, as submitted to the Agency, demonstrated that no violations of the Act or Board rules would have occurred if the requested permit had been issued." *Jersey Sanitary Corp. v. IEPA*, PCB 00-82, at 6 (June 21, 2001). Further, the standard of review applied by the Board to an Agency permitting decision is that of reasonableness. *Waste Mgmt. Inc. v. IEPA*, PCB 84-45, 84-61, 84-68 (Nov. 26, 1984). Waste Management bears the burden of demonstrating that allowing Waste Management to

dispose of and treat leachate generated from Peoria City County Landfill No. 2 at the Leachate Evaporator without proof of local siting approval would not result in violations of the Act or Board rules. 415 ILCS 5/40 (2022); 35 Ill. Adm. Code 105.112; *Browning-Ferris Industries of Illinois, Inc. v. Pollution Control Bd.* 179 Ill. App. 3d 598, 607 (“the Act places the burden of proof at the Board hearing squarely on the petitioner. [415 ILCS 5/40(a).] That burden is to show that the plan, as proposed by the applicant, will not result in the violation of the Act . . .”). Waste Management cannot carry its burden. The Act requires local siting approval before Waste Management’s Leachate Evaporator can dispose of and treat off-site generated leachate, and Waste Management has not submitted proof of the requisite local siting approval to the Illinois EPA. Therefore, the Board should deny Waste Management’s Motion for Summary Judgment finding that Illinois EPA properly denied Waste Management’s permit application requesting approval to accept off-site generated leachate for disposal and treatment at its Leachate Evaporator.

I. Waste Management’s Leachate Evaporator is a Pollution Control Facility Because the Leachate Evaporator Meets the Section 3.330(a) Definition and the On-Site Generation Exception Does not Apply to the Disposal of Off-Site Leachate Regardless of the Generator.

Waste Management’s Leachate Evaporator is a pollution control facility within the unambiguous meaning of the term as defined in Section 3.330(a) of the Act. 415 ILCS 5/3.330(a) (2022). A pollution control facility is defined as “any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator . . .” 415 ILCS 5/3.330(a). The Leachate Evaporator, which accepts leachate for disposal and treatment, is both a waste disposal site and a waste treatment facility and is therefore a pollution control facility within the meaning of Section 3.330(a). Although the Leachate Evaporator has always satisfied the definition of a pollution control facility, it has previously qualified for the on-site generation exception pursuant to Section 3.330(a)(3) of the Act because it exclusively disposed of and treated

leachate generated on-site at the Prairie Hill landfill. Petition at 1, ¶3. Therefore, until the permit application at issue, the Leachate Evaporator has never previously been permitted *as a pollution control facility* within the meaning of Section 3.330(a).

Waste Management now requests authorization to accept off-site generated leachate, specifically from Waste Management's Peoria City County Landfill No. 2, at its Leachate Evaporator, and again seeks shelter under Section 3.330(a)(3). Waste Management's Motion for Summary Judgment ("MSJ") at 5-7. But Section 3.330(a)(3) does not apply to Waste Management's permit application because the unambiguous language of that exception is limited to either disposing of and treating waste within the facility or transporting waste between facilities. Section 3.330(a)(3) provides that facilities are not pollution control facilities either (1) "when such wastes are *stored, treated, disposed of, transferred or incinerated within the site or facility*" or (2) "when such wastes are *transported within or between sites or facilities . . .*" Section 3.330(a)(3). Here, the first clause does not apply because Waste Management requests to transport leachate between facilities, that is from Peoria City County Landfill No. 2 to the Leachate Evaporator at Prairie Hill. R000003-R000020. Neither does the second clause apply because Waste Management requests to do more than transport waste between sites; it seeks to transport leachate for purposes of treatment and disposal. *Id.* Waste Management essentially reads the phrase "transported within or between sites or facilities" into the first clause and seeks to expand the narrow application of the on-site generation exception. Such interpretation renders meaningless the intentional differences between the clauses, specifically the different waste management activities encompassed by the clauses (*storage, treatment, disposal, transfer and incineration* versus *transportation* only) and the different geographic scope encompassed by the clauses (*within* versus *within or between*). *See, e.g., People v. Stoecker*, 2014 IL 115756, ¶25 (affirming the

established principle of statutory construction that every clause must be given a reasonable meaning, and terms should not be rendered meaningless or superfluous).

Further, as Respondent describes in its Motion for Summary Judgment, Waste Management's interpretation of Section 3.330(a)(3) fails to account for how the exception is punctuated. Respondent's MSJ at 11-13. Section 3.330(a)(3) describes two different operator generated waste scenarios separated by the word "or" and a comma. The first applies "when such wastes are stored, treated, disposed of, transferred or incinerated *within the site or facility*", and the second applies "when such wastes are *transported within or between sites or facilities*" *Id.* The first scenario includes an exhaustive list of permissible waste management activities "within the site or facility." *Id.* The second scenario only permits waste transportation between sites. *Id.* The clear and unambiguous language of Section 3.330(a)(3) shows that the on-site generation exception is inapplicable to Waste Management's permit application seeking approval to transport leachate from Peoria City County Landfill No. 2 to the Leachate Evaporator for disposal and treatment, and therefore the Leachate Evaporator is now a pollution control facility.

II. Waste Management's Leachate Evaporator is a New Pollution Control Facility Because Its Permit Application Requests Approval to Dispose of and Treat Off-Site Generated Leachate at the Leachate Evaporator for the First Time as a Pollution Control Facility.

Waste Management's Leachate Evaporator is also a new pollution control facility within the unambiguous meaning of the term as defined in Section 3.330(b)(3). 415 ILCS 5/3.330(b)(3) (2022). Section 3.330(b)(3) defines a 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." 415 ILCS 5/3.330(b)(3) (2022). As discussed above, the Leachate Evaporator is now a pollution control facility because the on-site generation exception does not apply where Waste Management seeks to dispose of and treat off-site generated

leachate at its Leachate Evaporator. While the Leachate Evaporator already accepts leachate, it was previously exempted from the definition of a pollution control facility and therefore has never accepted leachate *as a pollution control facility*. Now that Waste Management seeks to dispose of and treat off-site generated leachate at the Leachate Evaporator, Waste Management is requesting approval for the newly qualifying pollution control facility to dispose of and treat, for the first time, leachate, which is a special waste. Joint Stipulation of Facts and Documents (“Stip.”), at 3, ¶15 (“Prairie Hill Leachate is a special waste”).

Waste Management asserts that Section 3.330(b)(3) is inapplicable “[b]ecause WMI is not seeking to manage special waste for the first time.” Waste Management’s MSJ at 8. In apparent support, Waste Management underscores that Prairie Hill is permitted to accept special waste, and the Leachate Evaporator is permitted to accept on-site leachate. *Id.* But Waste Management fails to focus on the appropriate pollution control facility, that is the Leachate Evaporator. The Leachate Evaporator has never disposed of or treated leachate *as a pollution control facility* because, until now, the Leachate Evaporator has qualified for the on-site generation exception.

Waste Management cites to three cases purportedly standing for the proposition 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.” Waste Management’s MSJ at 9. But Illinois EPA has not argued that the Act requires local siting approval when a facility seeks to accept different types of special or hazardous waste or accept waste from different sources. Instead, Illinois EPA has shown that the Act requires local siting approval where, as here, a facility seeks to dispose of and treat special waste for the first time *as a pollution control facility*. Respondent’s MSJ at 9-10. Waste Management attempts to treat the landfill and the Leachate Evaporator as the same pollution control facility, but each is

independently a pollution control facility.

Waste Management first cites *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).¹ *Tazewell* involved an appeal of a county's decision to deny local siting for a proposed expansion of an existing waste disposal facility. *Id.* at 2-4. *Tazewell* is clearly distinguishable from the instant case. First, in *Tazewell*, the petitioner made clear in both its petition and during public hearings that it sought approval to accept special waste. *Id.* at 5. Interestingly, the Board exhorted future applicants against hiding the type of waste the facility seeks to accept. "The Board notes that although [Section 39.2 of the Act] does not require that the notice for a public hearing include a description of the waste under consideration, in the interests of fundamental fairness, such notice should be as precise as possible and that an applicant, in conjunction with the local authority, issuing an incomplete or confusing notice does so at its peril." *Id.* at 6. By contrast, Waste Management expressly represented during its local siting review that it would not accept special waste at Prairie Hill, and Prairie Hill's initial local siting approval was conditioned on the facility not accepting special waste. Stip., Exhibit A. ("Local Siting") at 6 (Summarizing the testimony of Waste Management witness James Nold, "No hazardous or special waste will be accepted at the facility") and 12 (Condition for Approval No. 4 "No special wastes shall be accepted at the facility").

Further, Waste Management's own quotation from *Tazewell* undermines its position. Waste Management's MSJ at 9. When the Board noted that local siting review is only required when a facility has never handled special or hazardous waste previously, the Board expounded, "The logic of this interpretation is obvious since to allow the local authorities to review each new

¹ Available at <https://pcb.illinois.gov/documents/dsweb/Get/Document-30432>.

waste stream would virtually paralyze the system” *Tazewell* at 9. Far from paralyzing Waste Management’s operations, Illinois EPA simply requires that Waste Management comply with the local siting requirements of the Act and allow local authorities to review Waste Management’s permit application to accept off-site generated leachate for the first time at its Leachate Evaporator. Prairie Hill’s only local siting approval, from 1992, was expressly conditioned on the landfill not accepting special waste. Stip. at 1-2, ¶¶3, 4; Stip., Exhibit A. at 12. Despite that fact, Prairie Hill began accepting special waste in 2015 and the Leachate Evaporator began disposing of and treating leachate, a special waste, in 2023 without ever receiving local siting approval thanks to narrow statutory exceptions. Stip. at 2, ¶¶8, 12; 415 ILCS 5/3.330(a)(3) and (24). Illinois EPA has not argued that local siting approval is required for every new type of special waste or every new source of waste, as Waste Management fears. Waste Management’s MSJ at 8. Instead, Respondent reasonably interprets Sections 3.330 and 39 as requiring Waste Management to submit proof of local siting approval for its disposal and treatment of off-site generated leachate, a special waste, for the first time at its Leachate Evaporator, which is both a pollution control facility under Section 3.330(a) and a “new” pollution control facility under Section 3.330(b).

Next, Waste Management cites *Browning-Ferris Industries, Inc. of Iowa v. Illinois Pollution Control Board*, 127 Ill. App. 3d 509 (3d Dist. 1984). In *Browning-Ferris*, Illinois EPA denied the transfer of permits from an initial landfill developer to the petitioner. *Id.* at 509-10. Illinois EPA’s decision was based on its belief that it improperly granted supplemental permits to the initial landfill developer which allowed the facility to accept special waste, but which Illinois EPA believed conflicted with the waste allowed under the facility’s operating permit. *Id.* Illinois EPA argued that local siting approval was required before it could transfer the supplemental permits to the petitioner. *Id.* at 511. The court rejected Illinois EPA’s argument without any

analysis of Section 3.330, and rather focused on two case-specific facts. First, the court found that the facility's operating permit did not expressly prohibit the landfill from accepting special waste. *Id.* Second, the court noted that the initial landfill developer "made it abundantly clear" in its permit application that it intended to accept special waste at the landfill at the time the facility was initially sited. *Id.* Neither of those facts are relevant in the instant case. It is undisputed that Waste Management's Leachate Evaporator is only permitted to accept on-site generated leachate and therefore was exempted under Section 3.330(a)(3) from the local siting requirements of a new pollution control facility under Section 3.330(b)(1) when it was first developed. Petition at 1, ¶3.

Further, Waste Management made it abundantly clear during its local siting review that the landfill would *not* accept any special waste. Stip., Exhibit A. ("Local Siting") at 6 (Summarizing the testimony of Waste Management witness James Nold, "No hazardous or special waste will be accepted at the facility") and 12 (Condition for Approval No. 4 "No special wastes shall be accepted at the facility.") Importantly, the *Browning-Ferris* court observed that if the facility's permit had prohibited the landfill from accepting special waste "then the applications in question here would clearly be requests for approval for the first time to handle special wastes" and require local siting approval. *Id.* Waste Management's Leachate Evaporator has never been permitted to accept off-site generated leachate *as a pollution control facility* and has never received local siting approval to accept special waste. Therefore, *Browning-Ferris* actually supports Respondent's position that Waste Management must submit proof of local siting approval to Illinois EPA before the Agency can consider its permit application.

Finally, Waste Management cites *Sierra Club v. Illinois Pollution Control Board*, 403 Ill. App. 3d 1012 (3d Dist. 2010), a case also cited in its Petition. Petition at 4, ¶27. As Respondent discussed in its Motion for Summary Judgment, *Sierra Club* involved an appeal of the Board's

decision to delist residue resulting from the treatment of electric arc furnace dust as hazardous waste for disposal purposes. *Id.* at 1015. Environmental groups challenging the adjusted standard argued that treatment and disposal of the treated residue for the first time constituted a new pollution control facility requiring local siting approval. *Id.* The appellate court held that there was no new pollution control facility and new local siting was not required because the existing facility was already permitted to accept hazardous waste and that the treated waste was not itself hazardous. *Id.* at 1021-22. *Sierra Club* is clearly distinguishable from the instant case. First, no one is arguing that new local siting approval is required every time a facility is permitted to accept special or hazardous waste from a new source. Instead, Illinois EPA determined a facility previously exempt from the definition of pollution control facility is seeking to expand its operations in a way that removes its previously applicable exemption and therefore requires local siting approval under Section 3.300(b)(3)'s first time provision. Second, unlike the waste at issue in *Sierra Club*, there is no question here that landfill leachate is a special waste. Stip. at 3, ¶15. Third, *Sierra Club* was governed by an entirely different statute as it involved an adjusted standard petition, not a permit modification. And finally, the facility at issue was a "waste stabilization facility" permitted to accept and treat hazardous waste. Here, the Leachate Evaporator is only permitted to dispose of and treat on-site generated leachate.

Waste Management also argues that "when determining when local siting should be required under [Section 3.330(b)(3)] the General Assembly did not make the facility at which the special or hazardous waste is generated a relevant consideration." Waste Management's MSJ at 11. Yet looking at Section 3.330 as a whole demonstrates that the General Assembly was in fact concerned with where waste is generated. Otherwise, Section 3.330(a)(3)'s on-site generation exception would not bother distinguishing waste generated "within the site" from waste transferred

“between sites”. 415 ILCS 5/3.330(a)(3); *Ultsch v. Ill. Mun. Ret. Fund*, 226 Ill. 2d 169, 187 (2007) (quoting *Land v. Board of Education of the City of Chicago*, 202 Ill. 2d 414, 422 (2002)) (“[O]ne of the fundamental principles of statutory construction is to view all of the provisions of a statute as a whole . . . Words and phrases should not be construed in isolation, but interpreted in light of other relevant portions of the statute, so that, if possible, no term is rendered superfluous or meaningless.”). Moreover, Waste Management’s argument misses the point. The Leachate Evaporator has avoided local siting review until now because, by exclusively accepting on-site generated leachate, the Leachate Evaporator was excepted from the definition of pollution control facility. Now that Waste Management seeks to accept leachate from other facilities it becomes a pollution control facility seeking to accept special waste for the first time *as a pollution control facility* and is therefore a new pollution control facility within the meaning of Section 3.330(b)(3). Respondent’s usage of the term “off-site generated leachate” does not add to the statute but rather clarifies why the Leachate Evaporator no longer qualifies for the on-site generation exception in Section 3.330(a)(3).

Waste Management also asserts that its interpretation of Section 3.330 does not interfere with the purposes of local siting review 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).” Waste Management’s MSJ at 11. However, (1) it is not enough that Waste Management refrain from interfering with the purpose of local siting review, it must demonstrate that it has met its statutory requirements, and (2) Section 39(c) requires applicants to provide proof of local siting approval for new pollution control facilities, and local authorities are required to follow the Section 39.2 process before granting its approval. This process goes beyond governmental autonomy to provide standards that hold local governments accountable to the

public they serve. The process is replete with concern for the public affected by a new pollution control facility. For example, Section 39.2(a)(ii) requires that “the facility is so designed, located and proposed to be operated that *the public health, safety and welfare will be protected*”; Section 39.2(a)(v) requires that “the plan of operations for the facility is designed to minimize the danger *to the surrounding area* from fire, spills, or other operational accidents”; Section 39.2(a)(vi) requires that “the traffic patterns to or from the facility are so designed as to *minimize the impact on existing traffic flows*”; Section 39.2(b) requires the applicant to serve notice on nearby landowners; Section 39.2(c) requires a public comment period; and 39.2(d) requires a public hearing. Moreover, “[t]he purpose of [the Section 39.2 criteria] is to impose standards, so that the decision of the County Board to approve or deny operation of a proposed landfill is made with guidance, rather than arbitrarily or by whim”, *Clutts v. Beasley*, 185 Ill. App. 3d 543, 545 (5th Dist. 1989), and “the Environmental Protection Act gives [local authorities and citizens] the right to insist that procedures at the County Board level comport with due process standards of fundamental fairness.” *E & E Hauling, Inc. v. Pollution Control Bd.*, 116 Ill. App. 3d 586, 596 (2d Dist. 1983). Waste Management seeks to avoid this Section 39.2 process which is expressly designed to involve local authorities and citizens in the siting process.

III. Section 39 of the Act Requires Waste Management to Submit Proof of Local Siting Approval for Its Leachate Evaporator.

Waste Management’s Leachate Evaporator is both a pollution control facility and a new pollution control facility within the meaning of Section 3.330(a) and (b)(3), and therefore Section 39(c) prohibits Illinois EPA from granting a “permit for the development or construction of a new pollution control facility” unless the applicant submits proof of local siting approval. 415 ILCS 5/39(c) (2022). Waste Management asserts that local siting approval is not required under Section 39 because “WMI is not seeking a permit to develop or construct anything. It is only seeking

modification of its operating permit.” Waste Management’s MSJ at 12. But Waste Management’s interpretation of Section 39 ignores the definition of “new pollution control facility” in Section 3.330. Section 3.330(b)(2) and (b)(3) defines a new pollution control facility as including “the area of expansion beyond the boundary of a currently permitted pollution control facility” and “a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.” 415 ILCS 5/3.330(b)(2) and (b)(3) (2022). This definition makes clear that, contrary to Waste Management’s assertion, the General Assembly intended certain modifications to existing facilities to constitute new pollution control facilities. If local siting requirements of Section 39(c) were limited to the construction and development of facilities, there would be no need to include existing facilities making certain modifications in the definition of a new pollution control facility. Further, Waste Management cannot avoid local siting requirements by initially seeking to develop the Leachate Evaporator for treatment and disposal of on-site generated leachate and then seek to modify only its operating permit to accept off-site generated leachate. *See United Disposal of Bradley, Inc. v. Illinois EPA*, PCB. No. 03-235 at 18 (June 17, 2004) *aff’d United Disposal of Bradley, Inc. v. Pollution Control Bd.*, 363 Ill. App. 3d 243 (3d Dist. 2006), *cert. denied*, 363 Ill. App. 3d 243 (2006) (finding that “before the Agency may grant United Disposal [a modified operating permit], United Disposal must request the same modification to its development permit” and receive siting approval from local authorities).

Waste Management argues that Section 39 does not require “local siting approval for the inner workings of an operating pollution control facility.” Citing *Ill. Env’t Prot. Agency v. Ill. Pollution Control Bd.*, 2018 IL App (4th) 170144, ¶41. In *Illinois Environmental Protection Agency*, a landfill filed a permit application seeking to modify its permit to allow the disposal of waste in an undeveloped area within the landfill’s permitted boundaries. *Id.* at ¶11. Illinois EPA

denied its modification request because the landfill owner did not submit proof of local siting approval pursuant to Section 3.330(b)(2) (defining a new pollution control facility as “the area of expansion beyond the boundary of a currently permitted pollution control facility). *Id.* at ¶12. In finding for the landfill, the Fourth District noted that Section 3.330(b)(2) applies to the entire facility not the boundaries of waste collection in a facility’s permit. *Id.* at ¶33. So, when the court writes “inner workings” it literally refers to the geographic area within the entire facility. *Id.* at ¶43. In the instant matter, the relevant definition of a new pollution control facility is Section 3.330(b)(3), not (b)(2). Waste Management’s petition is not about expanding the boundaries of a landfill, but instead about its request for approval to dispose of and treat for the first time leachate at the Leachate Evaporator. Therefore, its reliance on a figurative reading of “inner workings” is neither relevant nor supported by the Fourth District’s opinion.

IV. Conclusion

The Leachate Evaporator is both a waste disposal site and a waste treatment facility and is therefore a pollution control facility as defined in Section 3.330(a). Where Waste Management requests approval to transport off-site generated leachate at its Leachate Evaporator, the plain language of Section 3.330(a)(3) no longer exempts the Leachate Evaporator from the definition of a pollution control facility. The Leachate Evaporator is also a new pollution control facility under Section 3.330(b)(3) because, for the first time *as a pollution control facility*, Waste Management seeks approval for the Leachate Evaporator to dispose of and treat leachate, which is a special waste. Section 39(c) prohibits Illinois EPA from issuing a permit to new pollution control facilities without proof of local siting approval. Therefore, Illinois EPA properly denied Waste Management’s request to dispose of and treat off-site generated leachate at its Leachate Evaporator. As such, the Board should grant Illinois EPA’s Motion for Summary Judgment and

Waste Management's Petition should be denied.

Respectfully submitted,

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