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Ms. Andrea S. Moore
Board Member
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601

September 30, 2004
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CLERK'S OFFICE

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STATE OF ILLINOIS
Pollution Control Board

Re: PCB 03-52 Sutter Sanitation vs. IEPA

PC#1

Dear Ms. Moore:

I am writing because I understand that you are overseeing an appeal by Sutter Sanitation Services regarding the IEPA's denial of a permit for a waste transfer station in Effingham County. As I understand the situation, the proposed waste transfer station is directly across the road from some property owned by the Stock family, with whom I have had some business dealings. I had the opportunity of meeting some of the Stock family in 1999 through my efforts as an oil exploration geologist and in the process I became personally acquainted with the Stock's land in Effingham County.

The proposed station is within 1,000 feet of some inhabited dwellings on the Stock land. It is clear to me that the Stock family's homes would be negatively impacted by the waste transfer station, and it was with relief that I learned that the IEPA denied the permit requested by Sutter.

From what I have learned, it appears that Sutter Sanitation is taking the position for this appeal that the receipt of a local site approval constitutes "establishment" of its site. Such a position seems contrary to the property rights of private citizens. If taken as proposed by Sutter, anyone can flood the system with applications for such potential sites, no matter how spurious, and in so doing prevent any landowner adjacent to such sites from developing his own land. Indeed, the applicant may decide to abandon plans for the development of a site, yet the mere application would have served the purpose of halting any attempts by the adjacent landowners to develop their own lands for the period of time required to resolve the permit issue.

It does not seem reasonable that the Stocks' property rights can be infringed upon by the filing of an application. If Sutter Sanitation's appeal succeeds in overturning the IEPA's ruling, I believe it would set a dangerous precedent. It seems to me that the denial of the permit was in line with the spirit of the present law, which was established to prevent such proposals from harming homeowners.

Additionally, I was troubled to learn of Senator Righter's letter of April 15, 2004 to the Illinois Pollution Control Board regarding this appeal. I have written to Senator Righter expressing my concerns that his letter has the appearance of questioning the IEPA's legal judgment in this case. I respectfully pointed out to Senator Righter that although his efforts are no doubt well-intended,

they appear to question the validity of existing Illinois environmental laws. His involvement appears to be for the sole purpose of aiding the commercial efforts of one of his constituents, Sutter, at the expense of homeowners, the Stocks, in another district represented by a different senator.

I have heard that some people are concerned this case will set a precedent across the state that may impede reasonable efforts by garbage companies to establish transfer stations. Yet, it is my understanding that after the establishment of hundreds of landfills and garbage transfer stations across the state over many years, there has never before been a case where a permit for such a site was denied due to a home being built on adjoining property within 1,000 feet of the proposed site immediately prior to submission of the permit application. I am therefore inclined to believe that this case is a one-of-a-kind situation and that the IEPA correctly interpreted the law in denying the permit to Sutter.

Based on the newspaper articles that I have read, Sutter's disagreements with Effingham County's Landfill 33 appear to be at the core of Sutter Sanitation's vigorous efforts to establish its own garbage transfer station that would enable it to stop using Landfill 33. I find the rumors for this conflict between a garbage hauler and a local landfill owner interesting. In my opinion, the fact that this conflict is the cause of Sutter's attempt to develop a garbage transfer station next to the inhabited dwellings on Stock's land represents an imprudent context for overturning the IEPA's permit denial and its efforts to enforce the environmental laws of our state.

Finally, in my business, we take very seriously the need to at least make an honest attempt to keep in good graces with all the landowners in and around our activities. When we are planning to drill a well we typically contact all the landowners that might be affected by our activities and lease all the land that we believe is prospective. It would seem reasonable that Mr. Sutter would try to use the same business principles in dealing with landowners who may be impacted by his proposed garbage transfer station or, who in turn, could impact it. In this situation, if Mr. Sutter had approached the Stocks about the property within the 1,000 feet radius of his planned transfer station and either offered to buy the land or at least sought to gain assurances that there were no plans to for home building on it that might jeopardize his compliance with Illinois environmental laws, this entire problems could have been averted.

In conclusion, I respectfully ask that the Illinois Pollution Control Board decide against the appeal made by Sutter Sanitation Services and instead support the decision already reached by the IEPA. Thank you for your time and attention in reviewing this letter.

Sincerely yours,



Stephen T. Whitaker
President