

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 24 2005

STATE OF ILLINOIS  
Pollution Control Board

WASTE MANAGEMENT OF )  
ILLINOIS, )  
INC., )  
 )  
Petitioner, )  
 )  
v. )  
 )  
COUNTY BOARD OF KANKAKEE )  
COUNTY, )

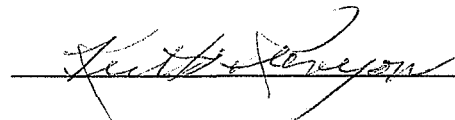
PCB 04-186  
(Pollution Control Facility  
Siting Appeal)

Respondent.

NOTICE OF FILING DUAL MOTIONS AND RATIONALE

Please take notice that on June 22<sup>nd</sup>., 2005, Keith L Runyon, an interested party in the above captioned matter, submitted motions requesting that the PCB grant said party ,intervener status, and that the PCB bar the County of Kankakee and it's Attorney from further participation in the above captioned matter. Section 101.110(c), and in accordance with Section 101.628(c). 35 Ill. Adm. Code 101.110(c); 35 Ill. Adm. Code 101.628©

KEITH L. RUNYON



Keith L. Runyon  
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Respondent.

Keith Runyon  
An interested Party

Leave to file a motion to intervene in the above captioned proceeding. Having been earlier denied this status based upon the County of Kankakee's promise, through its Attorney, to uphold the County's denial of Waste Management's Expansion Siting And to protect the rights and interests of the objecting parties and the citizens of Kankakee County. Now having demonstrated that the County's Attorney has abandoned his defense of the County's denial, there is no one defending the County's denial and the rights and interests of the objectors and the citizens of the County. Further I respectfully request that this Board bar the County of Kankakee and it's Attorney from further participation in this matter. I pray for your affirmative ruling in this matter.

  
Keith L. Runyon

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## RATIONAL AND MOTIONS

1)Applicant has filed a Joint Stipulation of Remand in the above captioned case, with this Board based upon a faulty premise. Applicant contends that unfair communication occurred which prejudiced the Board against Waste Management. This assertion is clearly not in evidence from the testimony given on April 6<sup>th</sup>. and 7<sup>th</sup>. 2005, at the PCB hearing in the Kankakee County Board Room. Not one Board member conceded that any communications or actions on the part of the citizens in any way affected his or her vote during the March 17, 2004 siting meeting and that they in fact made their decisions based on the evidence. For this reason alone, there is no basis for the PCB to remand jurisdiction back to the Kankakee County Board. This appraisal of the situation apparently reflects the views of the PCB in denying the Remand.

Further, this proceeding seems to be mirror image of the LAND AND LAKES v.RANDOLPH COUNTY case PCB 99-69 in which the board ruled Members of the Randolph County Board were subjected to numerous contacts outside the record, however, these contacts did not affect the ultimate decision and did not prejudice Land and Lakes. Therefore pursuant to Waste Management v. PCB and E&E Haulings, the proceedings were not fundamentally unfair. P-6 Runyon Brief. PCB file 47882

1)The only unfairness in this process has been the Applicant's unfair practices documented in Runyon's Amicus Curiae Brief submitted to the PCB on May 20, 2005. File 47882

a)The applicant unfairly and secretly met with a small group of County Board members for three years before the amendment to the County's Solid Waste Management Plan was brought before the board for amendment to allow out of county garbage. P-2 Runyon Brief

b)The applicant committed numerous violations of the ex parte rule through written correspondence to the County Board and by having its agents and suspected agents

communicate directly with County Board members prior to the Board March 17<sup>th</sup>, 2005 vote. P-3 Runyon Brief

c) Applicants own attorney sent a letter to County Board Chairman Karl Kruse during the ex parte period. P-3 Runyon's Brief

d) Applicant stationed pickets outside the County Building the day of the vote. P-4 Runyon's Brief.

e) Applicant unfairly jammed the County Board room with its employees so that citizens could not witness the vote on March 17<sup>th</sup>. 2004. P-5 Runyon's Brief

f) Applicant intimidated an outspoken opponent of the landfill. He was so intimidated that he feared for his life and left town. Pg 4-5 Runyons Brief

Because of the applicant's unfair tactics the Pollution Control Board should disallow the stipulation for remand and uphold the County Board's decision to deny siting as per the March 17. 2004 vote.

2) Applicant persuaded the board to vote for this remand based upon a totally new proposal which has never been the subject of a siting hearing. Applicant is presumably asking the County to reconsider its vote on the application that was denied so that they can present a new application. On the face of it, this appears to be a bait and switch maneuver designed to trick the County into approving the original application on the basis that Waste Management will substitute the new proposal instead. How farcical. The County cannot approve the old application and be given a new proposal which has never been subject to a 172 hearing.

Despite assurances from the County's Attorney that he would vigorously uphold the County's decision to deny siting he has totally abandoned the County's decision, the interests of the objectors and the people of Kankakee County and now appears to be

openly representing Waste Management. This is what the objectors feared from the beginning of the appeal process when objectors Watson, Karlock and Runyon petitioned this Board to be interveners in the Appeal. As of May 9, 2005 the County's Attorney had been paid \$1, 148, 000 and change. The vast majority of this money was pass through funding from Waste Management. As a consequence, County's attorney is financially biased in Waste Management's favor.

County's attorney made the following statements in filing his motion objecting to Watson' motion to intervene in this matter:

"27. Because it is clear that the County Board will adequately represent itself and vigorously defend its denial of the site location approval, Mr. Watson's intervention is neither necessary or appropriate. " P-8, PCB File 43320-1

County's attorney goes on to make the most unabashedly biased statement in favor of Waste Management imaginable.

39. "Additionally, Mr. Watson's Motion for leave to file an Amicus Curiae brief should be denied because, through his brief, Mr. Watson will not simply be advising this Board regarding the law, but will be advocating a point of view and urging this board to find in favor of the County Board and against WMII. " Pg-10, PCB File 43320-1

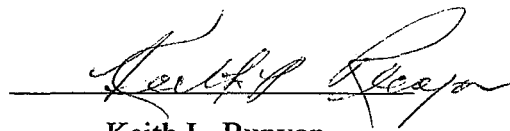
County's Attorney represented County Staff during the siting hearings in a siting advocacy role. Further, he argued for Waste Management's approval of Waste Management's first application in an appeal to the Third District Appellate Court. That case was rejected by the Court and Waste filed with the Supreme Court which, in turn, refused to hear the case.

Objectors Karlock, Watson and Runyon all filed motions to be interveners in the PCB appeal process because all, who had been objectors to both application hearings, were greatly concerned that County's attorney would not vigorously defend the County's decision. Unfortunately the objectors worst fears have been substantiated by the conduct of the County's Attorney. He has so absolutely abandoned his defense of the County's

denial that he even wrote a letter to Waste Management's Attorney advising him on how to file the Stipulation. See attached letter.

Under these extraordinary circumstances, this objector requests that the PCB now allow objectors, Runyon and Karlock, Watson should they file motions to intervene, be granted said status. And further, since the County and its Attorney are now ostensibly advocating in favor of Waste Management and is not upholding the County's denial, this party respectfully requests the Board to bar the County Attorney and the County of Kankakee from further participation in this matter and in lieu of those parties, allow the Attorney General's Office to defend the County's denial of the siting application.

It is hoped that the Illinois Pollution Control Board will rule in the affirmative on these vital requests.

A handwritten signature in cursive script, appearing to read "Keith L. Runyon", is written over a horizontal line.

Keith L. Runyon

June 22, 2005

# HINSHAW

& CULBERTSON LLP

May 27, 2005

Mr. Donald J. Moran  
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Re: Waste Management II Siting Appeal (PCB No. 04-186)

Dear Mr. Moran:

Please find enclosed herewith a copy of a Resolution passed by the Kankakee County Board on May 25, 2005, authorizing the County to join a Stipulation which requests this matter be remanded by the Pollution Control Board to the Kankakee County Board for further deliberation.

Please prepare such a stipulation for my review and approval.

In my opinion, the Stipulation need only refer to the fact that the Kankakee County Board is agreeing to this matter being remanded back to the County Board for further deliberation; nothing more, nothing less.


Again, please note that the Resolution that was passed provides that the remand request is without prejudice to and does not in any way waive the position presently taken by the Kankakee County Board in this matter on appeal. As I have also indicated to you, in my opinion, the procedural request for remand alone does not in anyway obviate or negate the County Board's prior denial of the application for site location approval in question, and unless that prior determination is rescinded and/or modified, that prior determination stands.

I am providing a copy of this correspondence and the Resolution to amicus parties as well.

Should you have any questions concerning this matter, feel free to contact me.

Sincerely,

HINSHAW & CULBERTSON LLP



Charles F. Helsten  
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chelsten@hinshawlaw.com

CFH:jml

Mr. Donald J. Moran  
May 27, 2005  
Page 2

Enclosures

cc: Jennifer Sackett Pohlenz  
George Mueller  
Keith Runyon  
Ed Smith  
Karl Kruse



AFFIDAVIT OF SERVICE

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty perjury under the laws of the United States of America, certifies that on **June 22<sup>nd</sup>. 2005 the Pollution Control Board** was served an original and five copies of the foregoing enclosed dual motions to requested intervener status and asking the PCB to bar the County and It's Attorney from further participation in the captioned action by depositing an original and five copies thereof, enclosed in an envelope in the United States Mail at Bourbonnais, Illinois, proper postage prepaid, and postmarked before 5:00 P.M. on June 22<sup>nd</sup>.2005. and to all other parties so listed and addressed as below.

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Illinois Pollution Control Board  
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Mr. Bradley Halloran  
Hearing Officer  
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Richard S. Porter  
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Christopher Bohlen  
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Kankakee County Board  
189 E. Court Street  
Kankakee, Il 60901

Kankakee County States Attorney  
Ed Smith Kankakee County State's Attorney  
Bremda Gorski  
450 E. Court Street.  
Kankakee, Il 60901

By depositing a copies (copy) thereof, enclosed in an envelope in the United States Mail at Bourbonnais, Illinois, proper postage prepaid, before the hour of noon, on May 20<sup>th</sup>...2005. addressed as above.

  
Keith L. Runyon

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