

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PROTECT WEST CHICAGO,)
)
Petitioner,)
)
v.) PCB 23-107
) (Third-Party Pollution Control Facility
CITY OF WEST CHICAGO, WEST) Siting Appeal)
CHICAGO CITY COUNCIL and)
LAKESHORE RECYCLING SYSTEMS,)
LLC,)
)
Respondents.)

PEOPLE OPPOSING DUPAGE)
ENVIRONMENTAL RACISM,)
)
Petitioner,)
)
v.) PCB 23-109
) (Third-Party Pollution Control Facility
CITY OF WEST CHICAGO and) Siting Appeal)
LAKESHORE RECYCLING SYSTEMS,)
LLC,) (Consolidated)
)
Respondents.)

**RESPONDENT CITY OF WEST CHICAGO'S RESPONSE
TO PROTECT WEST CHICAGO'S MOTION IN LIMINE**

Now comes the Respondent, City of West Chicago, by and through Dennis G. Walsh and Daniel W. Bourgault of Klein, Thorpe and Jenkins, Ltd., its attorneys, states as follows:

First of all, it is evident that Protect West Chicago ("PWC") has spent a long time contemplating and preparing this Motion in Limine and intentionally filed it just two days before the Respondent's Objections were due. It is fundamentally unfair that the Respondents were only given until 4:30 p.m. today, September 21, 2023, to file their Responses. Until September

19, 2023, we had no notice of and no idea that PWC intended to attempt to use these two exhibits in the hearing. Luckily, PWC uses thousands of words and 30+ typed pages to say nothing.

It's somewhat hard to fully follow but it appears that PWC is weaving some strange artificial conspiracy theory in its motion and the tortured logic it uses in arriving at the false conclusion that because some of the attorneys and consultants who worked on the City of West Chicago's siting matter here, and likewise subsequently worked on a siting matter in the City of Moline, that the Report and Findings of Fact and Conclusions of Law from the Moline siting and a reference to the website of Ancel Glink, is relevant to the siting and hearing in West Chicago. First of all, as Mr. Meza, the attorney for PWC well knows, there are a limited number of attorneys and consultants whose practice areas include local siting under the Illinois Environmental Protection Act and as such, it is not uncommon for some of those same attorneys and/or consultants to be involved in a number of siting hearings throughout the state.

Throughout the motion, we are presented with unsupported, broad and offensive conclusions which are based on alleged facts which contradict themselves. For example, the dishonesty of PWC's argument is highlighted in its suggestion that Aptim's partiality was compromised due to the fact that it was a consultant to LRS in the Moline hearing. And yet, throughout the hearing and filings of PWC, including in this motion itself, PWC purposely highlighted all of the ways in which Aptim pointed out the deficiencies in LRS's draft applications. So according to PWC throughout this entire process, on the one hand, Aptim did a really good job beating up on LRS but on the other hand, Aptim could not be objective or impartial in its review of the LRS applications or its filings because it later worked for LRS. PWC also suggests that Aptim has a conflict of interest in representing LRS but pointed out in this motion that I, as Special Counsel, painstakingly took the steps to make sure there was not a

conflict of interest and that Aptim affirmed that any relationship it has, or will have, with LRS would not in any way interfere with, or limit, Aptim's ability to fully represent the City of West Chicago in the matter of LRS's desire to site a transfer station on Powis Road. This included the pre-application review process and any needed hearing testimony.

PWC also misrepresents Aptim's role in this process. Aptim was hired to assist City staff, and the City staff's attorney, in this process. It assisted the City staff (and assisted the City staff's attorney) as one of the participants at the hearing. Aptim did not provide any type of advice or technical assistance to the City Council, which was the siting authority outside of anything Aptim may have done in the public hearing. For PWC to state that Aptim was the sole technical decision maker upon whom the City Council relied for its decision is at best, a misunderstanding of their respective roles in this siting.

It is also wholly dishonest for PWC to argue that Aptim, myself and/or Derke Rice of Ancel Glink were the primary decision makers. We were not, and there is nothing in the record and nothing PWC can present at the hearing and these two proposed exhibits do nothing to demonstrate otherwise. It was the City Council, the siting authority, that made the siting decision based upon the entire Record after it deliberated. PWC knows that but it does not like the decision the City Council made and as such, filed this motion in which it presents an offensive and false narrative full of conclusory opinions which are preposterous.


Simply put, if PWC believes it has evidence that the siting authority, in this case the City of West Chicago City Council, had predetermined the decision or that any member of the City Council was bias and/or that the hearing was not fundamentally fair to PWC, then that Petitioner should present competent evidence to support those allegations. The problem for PWC is that it knows, after the close of discovery, that there is no such evidence and so instead, it is now

attempting to use “alternative facts” in a deceptive way in its dishonest effort to get the Board and others to interpret the exhibits in a way that does not reflect reality.

Exhibits PWC-808 and PWC-812 have absolutely nothing to do with the siting of the City of West Chicago and PWC’s junk cognition does not make it so. The motion must be denied.

Respectfully submitted,

CITY OF WEST CHICAGO,
Respondent

By: 
One of Respondent’s Attorneys

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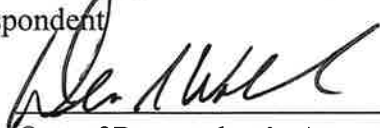
NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on September 21, 2023, the City of West Chicago electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **Respondent City of West Chicago's Response to Protect West Chicago's Motion in Limine**, copies of which are served upon you.

Respectfully submitted,

CITY OF WEST CHICAGO,
Respondent

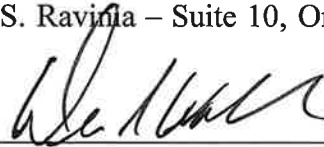
By: 

One of Respondent's Attorneys

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AFFIDAVIT OF SERVICE

I, the undersigned, on oath state that I have served this **Notice of Filing and Respondent City of West Chicago's Response to Protect West Chicago's Motion in Limine** upon the following persons via email transmittal from 15010 S. Ravinia – Suite 10, Orland Park, Illinois 60462, on the 21st day of September, 2023.



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