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**BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD**

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JUN 24 2003

STATE OF ILLINOIS
Pollution Control Board

Citizens Against Landfill Expansion,)
 Petitioners)
)
 v.)
)
 American Disposal Services of Illinois, Inc.)
 Respondent,)
)
 and)
)
 Livingston County Board, Livingston County,)
 Illinois, Respondent)

No. PCB 03-22

**PETITION TO REVIEW POLLUTION CONTROL
FACILITY SITING DECISION**

Citizens Against Landfill Expansion, an unincorporated association of residents of Livingston County ("CALE"), hereby petitions for review of approval of the application of American Disposal Services of Illinois, Inc. ("Applicant") for a 160-acre, 50-million-cubic-yard expansion of the Livingston Landfill located in Pontiac, Livingston County, Illinois, by the Livingston County Board (the "County Board") on May 15, 2003.

PARTIES

CALE is an unincorporated, voluntary association of residents of Livingston County, including, but not limited to Pontiac, Cornell, Flanagan, Dwight and Saunemin. CALE is a citizen's group that is so located as to be affected by the proposed facility. 415 ILCS 5/39.2(n) and 35 Ill. Adm. Code 107.200 & 107.306. CALE has sometimes also been referred to "Citizens Against the Landfill." Members of CALE appeared at and/or participated through counsel at the siting hearings held March 10-14, 2003. Applicant is a subsidiary of Allied Waste Industries, Inc. ("Allied Waste"), the second largest solid waste disposal company in the United States. The Livingston County Board, the siting authority with jurisdiction over the Livingston Landfill, is comprised of 24 members from three districts.

JURISDICTION

Applicant filed a request for siting approval with the County Board on December 4, 2002. A public hearing was held March 10-14, 2003 with John McCarthy acting as



hearing officer. Applicant presented its case; representatives of CALE participated as objectors. The County Board did not present any witnesses. Public written comment was accepted for 30 days thereafter. On May 6, 2003, the Agriculture Committee of the County Board formally recommended approval of the application. On May 15, 2003, the County Board formally granted Applicant's request, subject to special conditions. Pursuant to 35 Ill. Adm. Code 107.208(b), a true, certified copy of the County Board's decision is attached hereto as Exhibit A. CALE filed this petition for review within the statutory time frame. Thus, the PCB has jurisdiction over this matter pursuant to Section 39.2 and Section 40.1 of the Illinois Environmental Protection Act. 415 ILCS 5/39.2 & 40.1.

GROUND FOR APPEAL

CALE contests and objects to the County Board's siting approval on the following grounds:

A. Lack of Jurisdiction

The County Board lacked jurisdiction to conduct the siting hearing due to the failure of Applicant to give required statutory notice under Section 39.2(b).

B. Fundamental Fairness

The process was fundamentally unfair based on the following: (1) upon information and belief, many members of the siting authority pre-judged or failed to judge whether the Applicant had satisfied the statutory criteria: (a) due to fear that if the County Board did not approve of the application, the City of Pontiac would annex the property in question and collect the host fees, and/or (b) due to an overpowering desire to obtain the \$162 million host fee that was previously negotiated, which figure included higher host fees for the existing landfill (almost double the rate per ton) if the County Board approved an unspecified expansion (assuming such expansion became final); and (2) any such other bases of fundamental unfairness as may hereafter be discovered and established.

C. Failure to Meet Siting Criteria

The following statutory criteria were not met: (a) need; (b) health, safety and welfare; (c) minimization of incompatibility and property value impacts; and (d) consistency with the County's Solid Waste Management Plan. 415 ILCS 5/39.2(a)(i), (ii), (iii) & (viii).

1. NEED

The statute states that the applicant must demonstrate that "the facility is necessary to accommodate the waste needs of the area it is intended to serve." 415 ILCS

5/39.2(a)(i). This criterion has been held to require the applicant to demonstrate “both an urgent need for, and the reasonable convenience of, the new facility.” Waste Management, Inc., 175 Ill. App. 3d 1023, 1031, 530 N.E. 2d 682, 689 (2nd Dist. 1988). In light of Applicant’s own evidence, together with evidence submitted by CALE, it was plainly evident that the proposed expansion of 50 million cubic yards--approximately double the capacity of the existing facility--is not urgently needed at this time.

2. HEALTH, SAFETY & WELFARE

The statute requires that the Applicant prove that “the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.” 415 ILCS 5/39.2(a)(ii). Applicant has failed to do so.

(a) **Hydrogeology Study.** The Applicant’s hydrogeology study suffers from such serious flaws that it cannot provide a reasonable basis for the proposed expansion.

(b) **Inward Gradient Design.** Given the hydrogeological features of the proposed site, the “inward gradient” design is not protective of human health or the environment.

(c) **Impact on the Vermilion River.** The impact of the landfill on the Vermilion River is unknown. The Applicant failed to demonstrate that the expansion would not adversely affect the area’s major body of water.

(d) **Air Pollution.** The Applicant failed to demonstrate that the air pollution generated by the project would not impact area residents through hazardous air pollution, nuisance odors, or deposition of hazardous substances on farmland or in the City of Pontiac’s drinking water reservoir.

3. COMPATIBILITY/PROPERTY VALUES

The Applicant has failed to demonstrate that “the facility is so located as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. 415 ILCS 5/39.2(a)(iii). Based on testimony provided by Applicant’s own witnesses, as well as other evidence in the record, it was against the manifest weight of the evidence to conclude that the proposed facility would meet this criterion, with respect to both compatibility and property values. Incompatibility issues include, but are not limited to, the presence of a school in the immediate vicinity of the facility; proximity to the Pontiac Municipal Airport; obvious impacts on the real estate market in the area as evidenced by Applicant’s own involvement in purchases in the area; and the gross inadequacy of the proposed Property Value Guarantee Program to protect property owners located within the extremely large zone of influence of the 160-foot-high facility being proposed by Applicant.

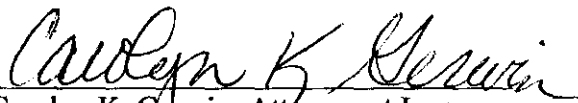
4. CONSISTENCY WITH THE COUNTY'S SOLID WASTE MANAGEMENT PLAN

Prior to June 13, 2002, the County's Solid Waste Management Plan specifically prohibited any new landfill space in the County. Before Applicant ever filed an application for expansion, Applicant requested the County to amend the SWMP to permit the expansion that is the subject of this petition for review. (The Applicant withdrew its first application because Applicant failed to provide all the necessary pre-filing notices.) On June 13, 2002, the County Board complied with Applicant's wishes and amended the SWMP to permit the expansion, but they did so at a meeting at which dozens of citizens were intentionally excluded from the room. Counsel for CALE, in her individual capacity, challenged the validity of that vote under the Open Meetings Act. That case is now on appeal before the Illinois Appellate Court. Relief requested therein includes nullification of the June 13, 2002 amendment of the SWMP. Thus, the validity of the amendment to the SWMP that would permit the expansion is subject to pending legal proceedings.

RELIEF REQUESTED

For the foregoing reasons, CALE respectfully requests that the PCB set this matter for hearing and discovery, that the approval of the application be REVERSED and the application DENIED, and for such further relief as the PCB may deem appropriate.

Respectfully submitted,



Carolyn K. Gerwin, Attorney at Law
Counsel for Citizens Against Landfill Expansion

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RESOLUTION NO. 03-012

RESOLUTION CONCURRING WITH THE FINDINGS AND
RECOMMENDATIONS OF LIVINGSTON COUNTY'S INDEPENDENT REVIEW
TEAM AND THE COUNTY REVIEW TEAM'S RECOMMENDED CONDITIONS
AND THE RECOMMENDATION OF THE AGRICULTURE COMMITTEE TO
GRANT THE REQUEST FOR SITING APPROVAL FOR THE LIVINGSTON
LANDFILL POLLUTION CONTROL FACILITY FILED WITH THE
LIVINGSTON COUNTY BOARD BY
AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.

WHEREAS, on December 4, 2002, American Disposal Services of Illinois, Inc., hereinafter referred to as "ADS," filed with the County of Livingston, Illinois, hereinafter referred to as "County," a request for siting approval for the expansion of a pollution control facility located in a portion of Section 4 of Pontiac Township and a portion of Section 33 of Esmen Township in the County; and

WHEREAS, the request and supporting documents were submitted pursuant to Section 39.2 of the Illinois Environmental Protection Act, hereinafter referred to as "the Act," and the Livingston County Pollution Control Facility Siting Ordinance dated and adopted on October 14, 1999, as amended; and

WHEREAS, Livingston County and the Agriculture Committee, hereinafter referred to as "Committee," after proper notice thereof, conducted public hearing beginning on March 10, 2003 and ending on March 14, 2003, before a hearing officer elected by the Committee, at which time ADS made its presentation in support of the request for siting approval followed by a presentation by various objectors. All interested persons in attendance, including objectors, were given an opportunity to make a statement or cross question the witnesses, and the hearing was, in all respects, called and conducted pursuant to applicable law and ordinance; and

WHEREAS, all notices were duly and properly given as required by law; and

WHEREAS, the County has jurisdiction to cause a public hearing to be held and to grant or deny the request of ADS for siting approval of a pollution control facility; and

WHEREAS, at the public hearing ADS and objectors submitted the oral testimony of expert and other witnesses along with extensive documentary evidence and exhibits, all of which were received into evidence by the hearing officer; and

WHEREAS, Livingston County's Independent Review Team filed its Findings and Recommendations and the County Review Team's Recommended Conditions with the

Livingston County Clerk on May 2, 2003, which is attached hereto and made a part hereof by reference as Exhibit A.

WHEREAS, the Committee, on May 6, 2003, made a recommendation for approval of the request for siting approval filed by ADS subject to the Findings and Recommendations of Livingston County's Independent Review Team and the County Review Team's Recommended Conditions, as set forth in Exhibit A; and

WHEREAS, ADS has agreed to the Recommended Conditions as set forth in Exhibit A, which Conditions are hereby incorporated by reference, as a condition of approval by the County, and ADS agrees that the total expansion of the Livingston Landfill shall not exceed an additional 50,000,000 cubic yards of airspace; and

WHEREAS, the Committee submitted the findings, recommendations and conditions as set forth in Exhibit A and the recommendation of the Committee to the Livingston County Board for its consideration at a regular meeting of the Board on May 15, 2003.

NOW, THEREFORE, BE IT RESOLVED that County Board of Livingston County, Illinois, concurs with the Findings and Recommendations of Livingston County's Independent Review Team and the County Review Team's Recommended Conditions with regard to the Request for Siting Approval for the Livingston Landfill, a Pollution Control Facility, filed by ADS, as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof in its entirety by reference.

BE IT FURTHER RESOLVED that the Livingston County Board grants the request for siting approval filed by ADS for expansion of the Livingston Landfill which shall not exceed an additional 50,000,000 cubic yards of airspace, subject to the recommended conditions set forth above and approves the site location set forth in the request for a pollution control facility in accordance with Section 39.2 of the Illinois Environmental Protection Act and the Livingston County Pollution Control Facility Siting Ordinance adopted on October 14, 1999, as amended, and that a copy of the Findings and Recommendations of Livingston County's Independent Review Team and the County Review Team's Recommended Conditions, as well as a copy of this Resolution, be forwarded to the Illinois Environmental Protection Agency by the County Clerk of Livingston County, Illinois, and she shall certify the siting approval on IEPA Form LPC-PA8.

Adopted by the Livingston County Board on the 15th day of May, 2003.

AYES: 19

NAYS: 4

ABSTAIN: 1

PRESENT: 24

Jeanne Rapp
Jeanne Rapp, Chairman, County Board of
Livingston County, Illinois

ATTEST:

Judith K. McGlasson
Judith K. McGlasson, Clerk, County
Board of Livingston County, Illinois

STATE OF ILLINOIS
COUNTY OF LIVINGSTON
I hereby certify that this is a true
copy of the original filed in my
office.

Date June 18, 2003
Judith K. McGlasson
County Clerk and Recorder

BEFORE THE COUNTY BOARD &
AGRICULTURAL & ZONING COMMITTEE OF THE
COUNTY OF LIVINGSTON, ILLINOIS

IN RE:)
)
APPLICATION OF)
AMERICAN DISPOSAL SERVICES)
OF ILLINOIS, INC.)
FOR NEW POLLUTION CONTROL)
FACILITY SITING APPROVAL)
IN LIVINGSTON COUNTY, ILLINOIS)

RECEIVED

MAY 2 - 2003

JUDITH K. McGLASSON
LIVINGSTON COUNTY CLERK

FINDINGS AND RECOMMENDATIONS OF
LIVINGSTON COUNTY'S INDEPENDENT
REVIEW TEAM

1. On December 4, 2002, American Disposal Services of Illinois, Inc. (hereinafter referred to as "ADS") filed its Application for Siting Approval for the Livingston Landfill with Livingston County. Said Application incorporated a previous filing of June 14, 2002, which was withdrawn by ADS as well as an additional volume of information and additional drawings.

2. The subject property that constitutes the proposed expanded Livingston County Landfill is situated in a portion of Section 4, Township 28 North, Range 53, and in a portion of Section 33, Township 29, Range 5, both East of the Third Principal Meridian, and is located in unincorporated Livingston County, Illinois.

3. ADS owns and/or has an option to purchase the subject properties, and is the principal contractor of the proposed landfill expansion.

4. At least 14 days prior to filing the Application, ADS was required to have given written notice of its intent to file the Application ("Filing Notice") in person and/or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by ADS and on the owners of all property within 400 feet in each direction of the lot line

of the Subject Property, said owners being such persons or entities which appear from the authentic tax records of Livingston County. ADS further was to have served the Filing Notice in person and/or by certified mail, return receipt requested, at least 14 days prior to filing the Application, on the members of the General Assembly from the legislative district in which the Proposed Facility is located. ADS further caused the Filing Notice to be published in a newspaper of general circulation published in Livingston County at least 14 days prior to the filing of the Application.

5. The Application contained all the information required by Section 39.2(c) of the Act and the Livingston County Siting Ordinance.

6. ADS paid the required application fee to the County pursuant to the Siting Ordinance.

7. Prior to commencement of the public hearing, Livingston County caused notice of the public hearing on its Application ("Public Hearing Notice") to be served by certified mail, return receipt requested, on the members of the General Assembly from the legislative district in which the Proposed Facility is located, the Illinois Environmental Protection Agency ("IEPA"). Livingston County further caused the Public Hearing Notice to be published in a newspaper of general circulation published in Livingston County on February 15, February 19 and February 24, 2003, prior to the start of the public hearing.

8. The Public Hearing Notice was served and published within the prescribed time periods in accordance with the requirements of Section 39.2(d) of the Act and Section 4(d) of the Ordinance.

9. That public hearings were held on the Application beginning March 10, 2003 and running day to day until March 14, 2003. Said hearings were conducted on behalf of the Livingston County Agricultural & Zoning Committee and were presided over by Hearing Officer John McCarthy.

10. ADS did not file a formal amendment to the Application.

11. No request for local siting approval of the Proposed

Facility, which is substantially the same as a request that was disapproved under any of the criteria of Section 39.2(a) of the Act, has been filed within the preceding two years. Although ADS had previously filed an application that was substantially the same as this Application, said prior application was withdrawn and was not "disapproved" as defined by statute.

12. An opportunity for members of the general public to present testimony, evidence and witnesses, and to make statements was given at the public hearings.

13. The Livingston County Administrator of the County Regional Planning Commission, with the advice and consent of the County Board, retained legal counsel, Larry M. Clark as well as technical consultants Deigan & Associates, LLC to perform legal and technical reviews of the Application and to prepare and submit this final report to the Agricultural & Zoning Committee of the County. The Administrator of the Livingston County Regional Planning Commission, Larry M. Clark, and Deigan & Associates, LLC are collectively called the "County Review Team".

14. Based on the record developed pursuant to the County's Siting Ordinance, the 8 volume Application for local site approval, the prior records of the Livingston Landfill filed in conjunction with this Application, the testimony elicited at the public hearing, and written/oral public comment, the County Review Team recommends approval of the request for landfill expansion siting, as submitted, **subject to the following conditions**, provided such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (see 415 ILCS 5/39.2(e)).

15. The County Review Team's recommended conditions and brief statements relating to said conditions, which provide the supporting basis for the conditions, are set forth in the following paragraphs. The County Review Team recommends that each and all of the conditions set forth herein should be imposed on ADS, if the County Board approves the Siting Request. The recommended conditions are reasonable and necessary in accomplishing the purposes of Section 39.2 of the Illinois Environmental Protection Act. The conditions are supported by evidence in the record.

16. The County Review Team conducted a comprehensive review of the Record developed for this siting request, including all of the materials filed by the applicant and the public. The County's review team was present throughout the public hearings and has considered all of the technical submittals, testimony and public comments in formulating our findings and recommendations outlined herein.

County Review Team's Response to April 11, 2003 Letter by Ms. Sondra Sixberry.

Ms. Carolyn Gerwin, a public participant, retained Ms. Sixberry as a hydrogeologist consultant. Topics of concern raised by Ms. Sixberry's letter focused on Criterion 2 of Section 39.2 of the Environmental Protection Act. The following bullet points are presented in Ms. Sixberry's letter as conclusions and are responded to by the County's independent review team, as follows:

- ◆ *"The chaotic nature of the potentiometric surface maps is in part due to the discontinuous nature of the water bearing sand units."*

The application thoroughly describes the heterogeneity of the three sand units occurring across the landfill site. It is our professional opinion that these units have been adequately and reasonably characterized from a geotechnical, geological and hydrogeological standpoint for purposes of assessing the siting criteria. Although these units are clearly shown to be quite variable in their occurrence, there has been sufficient field documentation to determine the flow regimes. The earlier hydrogeologic studies, such as the 1995 potentiometric surface map prepared for the middle sand, shows a quite normalized flow pattern. This pattern precedes any dewatering activities. When we review this same sand unit under influence by dewatering over the past two years, the flow patterns are significantly different. Therefore, we concur with the applicant's discussion that the erratic groundwater flow patterns observed are from ongoing dewatering, and not from the morphology or "discontinuous nature" of the sand units.

- ◆ *"It will be difficult to adequately assess groundwater flow through discontinuous sand lenses."*

Groundwater flow occurs through all soil types; including silt and clay. The siting application discusses the presence of these lower permeable soil types in each of the sand units. Groundwater flow directions within each of the sand units can be characterized regardless of its geotechnical properties and morphology. Groundwater movement rates however, will be affected by the presence of silts and clays within each sand unit. Even though we can expect an increase in hydraulic gradients in those soils to maintain the groundwater velocity rates, flow directions will not be significantly effected. It should be noted that the application discusses a network of monitoring wells that will be installed on all downgradient perimeters of the landfill. The reason for this conservative monitoring approach is admittedly due to the uncertainty of groundwater flow created by the applicant's ongoing dewatering. The alternative, as hinted by Ms. Sixberry's letter, would be to not monitor a discontinuous sand unit or an unsaturated sand unit. We believe this would be a less conservative approach.

- ◆ *"Boring logs indicate that monitor well screens are not properly located which will likely cause problems in interpreting future monitoring data."*

Installation of monitoring wells within unsaturated soils provides important information, as do wells placed in saturated soils. Seasonal variations in precipitation have an effect on shallow groundwater levels, and well screens may not always fully penetrate the saturated zone. Proper placement of well screens is important to accurately represent the aquifer conditions for the respective unit. However, even a partial screened penetration can yield adequate information. Our recommended conditions further address well screening requirements for future well installations.

- ◆ *"Based on the deeper boring logs that encountered the bedrock, fractures and weathered zones are present at depth."*

Typically, the weathered zone of the shale bedrock occurs at the top (interface) and is characterized as being "thin and absent at some locations". The boring logs document this weathered zone in all of the boring logs that penetrated the bedrock, ranging from less than 1 foot up to 5 feet in thickness. In the deep boring log (B05-01D); the bedrock consists primarily of shale with occasional dolomitic limestone interclasts. Weathered and fractured shale is

only described as being at the bedrock around 78 feet below grade. The remainder of the bedrock is classified as unweathered shale.

- ◆ *The bedrock present beneath the site is not competent, but capable of transmitting water.*

At least 17 borings were cored into the bedrock, with core lengths ranging from 10.6 to 51.8 feet. According to the packer test field data, the average hydraulic conductivity value for the bedrock shale was presented as being 6.33×10^{-8} cm/sec. This value represents the average conductivity for entire bedrock column tested. The highest conductivity values were noted to be around 2×10^{-5} cm/sec. These values occurred in unweathered, competent shale in B01-01D. Over 50% of the packer tests documented "no take" and were given an assumed 1×10^{-8} cm/sec value. Although two values listed above for B01-01 suggest a relatively higher permeability, these zones were not considered to be water bearing. Based on our review of the data presented, it is our professional opinion that the bedrock has been adequately characterized with respect to its permeability and (in)ability to transmit water.

- ◆ *"If the leachate from the landfill happens to migrate through the landfill liner, there is a potential for area bedrock wells to become contaminated."*

The applicant's Groundwater Impact Assessment (GIA) modeling assumed a 1 square centimeter hole to be present in the landfill geosynthetic liner, occurring at 5 locations within each acre of landfill liner area. The model, even with presumed failure and leakage of the liner and contaminant levels equal to the known worst-case leachate concentration (nickel used for model), predicted that the Applicable Groundwater Quality Standard (AGQS) would not be exceeded at the outer edge of the zone of attenuation (ZOA) after 100 years of landfill closure. The distance of the outer edge of the ZOA from the landfill is only 100 feet from the waste boundary. The closest known residential bedrock well is at least 1,400 feet from the landfill property margin. Thus, based on our review of the predictive modeling; the methodology of which is prescribed and reviewed by IEPA, we would disagree with this conclusion. Further, the groundwater monitoring program and the Host Agreement's residential well protection program would further protect against this potential occurrence.

- ◆ "In order to determine if this site is located in a hydrogeologic setting that would be capable of adequately protecting humans and the environment, several issues related to the hydrogeologic conditions at the site should be resolved."

The County's independent review team has developed a number of reasonable and necessary recommended conditions related to the hydrogeologic conditions at the proposed landfill expansion site. It is our professional opinion that with these conditions, there is sufficient technical information for the Board to make a determination as to the site's geology and hydrogeology as it relates to Siting Criterion 2.

County Review Team Comments on Emerging/Alternate Solid Waste Technologies

During the public hearing, information and testimony was presented by a public participant on an emerging technology that utilizes "closed-loop gasification" processes to manage the solid waste stream. This technology application, while founded in proven science principle, is still in development stage and as such for some period of time, will have to be applied on a small scale and in combination with traditional landfilling and recycling technologies. During this period of small scale application, the economics, performance, and regulatory standards may be further developed and proven. Livingston County has not been presented with a request for siting approval for the closed loop gasification technology at this time. The siting application before the County and which the County must act upon is for an expansion to the existing landfill site.

This is not to state that the County should not be motivating this applicant to explore alternative technologies in the context of its landfill development and operation. The County Review Team believes that applying innovative technology in addition to traditional solid waste landfilling techniques is beneficial to the County, the region, and the applicant. To this end, we urge the applicant to work closely with the County during this next period of expanded operation, if approved, to enhance and optimize the existing and expanded landfill operation.

Specifically, The County's Review Team recommends that the applicant, ADS, accept a special condition of siting approval that

further several innovative technologies in landfill development, including but perhaps not limited to:

1) Developing bioreactor landfill conditions via the controlled recirculation and recycling of leachate within the waste mass.

This innovative design and operational approach can result in 10 to 20% accelerated biodegradation and stabilization of solid waste. Benefits, when properly implemented can include:

- Reduced long-term pollutant loading on the landfill liner system as waste degradation occurs more rapidly.
- More efficient energy recovery via accelerated rates of landfill gas generation and re-use.
- Higher rates of waste settlement and consolidation (increased landfill capacity).
- Decreased post-closure maintenance requirements, with opportunity for timely end-use plan implementation.

2) Enhanced techniques to densify the waste mass and optimize air space.

The use of deep dynamic compaction, modified vibro compaction techniques, and surcharge loading can be further assessed as an opportunity to obtain additional disposal capacity in the same amount of air space.

3) Increased use of recycled materials in construction of landfill components.

The use of recycled, shredded tire chips as an alternate to granular soils (sand and gravel) in constructing the leachate and gas collection layers is an opportunity to further advance recycling goals.

4) Landfill development and closure with cognizance of future beneficial end-uses for the land area.

As the existing or proposed expansion, if approved, approaches final closure, an in depth soils balance evaluation of the remaining soils should be undertaken. If large quantities of excess soil are available, the applicant should approach the County with one or more proposals to dispose of excess soils on the cap of the landfill. Such soils could be used to change the

plain "hill-like" appearance of the closed landform as well as to provide further opportunities to install additional plantings on top of the form without impacting the cap. There are numerous landfill redevelopment projects being implemented that are eliminating the long-term non-productive use of former solid waste landfills both locally and nationally. These projects can be accomplished at less expense and in shorter time frames when they are planned concurrently with landfill development, operation, and closure.

The framework of a potential special condition which advances these innovative principles with the development and operation plan for the expanded landfill, if approved may look something like this:

Within the initial 3 years of the expanded landfill development and operation, ADS shall develop supplemental and/or experimental permit modifications for County and IEPA review that advance each of the concepts in items 1 through 4 above for the benefit of the Facility and the County.

County Review Team's Recommended Conditions

Opportunity for Enforcement of Conditions

The County Review Team's recommended conditions are intended to further define and/or clarify design and operating performance standards for the proposed landfill expansion facility, as related to the nine siting criteria of Section 39.2 of the Illinois Environmental Protection Act, if the Board grants conditional siting approval. The County shall have the opportunity to enforce these conditions via several mechanisms:

- a) By further condition that ADS shall submit these final conditions with its applications for a development and operating permit to IEPA, and as such the conditions become incorporated into the IEPA permit, by reference to the application and become enforceable by IEPA under such permit.
- b) When siting conditions have become an IEPA permit condition (incorporated by reference as described in (a) above), the County has the opportunity to bring notice of complaint to IEPA and/or the Illinois Pollution Control Board (IPCB) of non-compliance.
- c) In the event IEPA and/or the IPCB decline jurisdiction over enforcement of these conditions, then the County shall have the right to enforce the conditions in an action before the local judicial court and ADS has indicated that it waives any right to raise jurisdiction as a defense or challenge the authority of the County to enforce these conditions.

Compliance & Implementation Schedule

Unless an alternate compliance schedule period is otherwise stated specifically within the condition, the schedule for ADS implementation and compliance with these conditions shall be prior to commencement of construction on any landfill or landfill appurtenance development associated with the expanded landfill air space.

- I. Criterion Number 1: The Facility Is Necessary To Accommodate The Waste Needs Of The Area It Is Intended To

Serve

At the hearing the County Agricultural Committee heard testimony regarding this Criterion from Philip Kowalski who testified regarding the current capacity of landfills both inside and those located outside the service area (but available and currently or potentially receiving waste from inside of the service area). He testified that if all of the waste generated within the service area was disposed of in the landfills located within the service area, less than two years of capacity remain. When considering other landfills located outside of the service area, many of which are currently receiving waste generated from within the service area, his capacity estimate jumps to 3 and 1/2 years and to approximately 5 years capacity when considering capacity and potential (relative to distance) capacity, respectively.

Although the service area may not appear uniform or may not accurately reflect an ideal "wasteshed" service area, the service area may be selected unilaterally by the applicant and the County must make its determination based upon the service area as selected by the applicant. Both Mr. Kowalski and Mr. McDonnell testified that the service area was based upon historical waste acceptance. (See Transcript at Page 61 and Page 240).

Based upon the testimony and the application and other information available to the County's Review Team, the estimates provided by the applicant were not considered to be extreme and would support the idea that additional landfill capacity is reasonably required, subject to certain conditions.

The County's continued oversight of the landfill may impose an additional staffing and resource burden to County Staff in overseeing the expanded landfill. The siting, design, and operation of this facility may, from time to time, require the use of specialized outside consulting resources and expertise to:

- Review technical submittals and follow-up plans/studies required by conditions of the Siting Resolution,
- Inspect the facility and/or conduct independent oversight for compliance with the Siting Resolution,
- Enforce the conditions of the Siting Resolution and/or Host Agreements.

Condition 1-A The County shall have the right to conduct inspections of the facility, at any reasonable time, and ADS shall grant access to all areas of the facility at time of such inspection. During each inspection, ADS shall provide documents and records related to compliance with the condition(s) of Siting Resolution and /or Host Agreement. At the County's discretion, a routinely scheduled quarterly review meeting with ADS may be requested.

Condition 1-B ADS shall establish an electronic, internet-based, secure system of making technical submittals and posting of routine, periodic reports to the County and any submittals made by the operator to IEPA. The internet-based system shall provide an e-mail notification to the designated County representative (and/or its designated consultant) whenever the web page is updated or electronic submittals are posted. The operator shall provide the County representative with training and/or software necessary to access the electronic submittals. ADS shall continue hard copy submittals to the County, concurrently with electronic postings, until such time as the County notifies the operator that hard copies are no longer required.

Basis for Conditions:

The applicant, ADS stipulated in its testimony that this landfill siting expansion was intended to be consistent with conditions developed for the Streator Area Landfill, Inc. siting approval. (See Transcript at Page 197). The County authorized these conditions in its resolution of the Streator Landfill expansion and such conditions are applicable to the Livingston Landfill expansion, if approved.

Condition 1-C The applicant shall annually limit special waste receipts to no more than the greater of 10% of the total gate waste stream or 300,000 tons/yr.,

calculated on an average annual basis, but not in excess of 360,000 tons/yr in any one year. County approval shall be obtained for any exceedances of this special waste quantity. Special waste receipt volume shall be reported to the County at least semi-annually.

Basis for Condition:

The facility has not demonstrated a need for a facility to dispose of special waste volumes beyond the past historical amounts of special waste received by the facility.

Condition 1-D Total waste intake shall not exceed 3,000,000 tons/yr averaged over 11 years, with a maximum of 3,600,000 tons in any one year. Daily intake shall not exceed 13,500 tons/day on any given operating day.

Basis for Condition:

ADS testified, through Philip Kowalski that they would limit daily and yearly intake in order to assure the County that at least 11 years of capacity would be reserved for the entire service area. (See Transcript at Pages 241 and 302). This restriction is in addition to the Host Agreement entered into by ADS and the County that requires capacity for the County's waste through 2026.

II. Criterion Number 2: The Facility Is So Designed, Located And Proposed To Be Operated That The Public Health, Safety And Welfare Will Be Protected

Mr. Devin Moose was the principal witness regarding this criterion with some overlap of Mr. Dave Bryant's testimony. Mr. Moose testified about the geology, hydrogeology, design, construction, quality assurance program, and monitoring programs for the proposed expansion. Mr. Bryant testified primarily regarding operations, as currently exist, and as proposed for the expanded facility.

Condition 2-A ADS shall install the Rowe Road underpass prior to the development of any landfill expansion in Parcel C.

Basis for Condition:

In order to protect any impact from vehicular traffic traveling along Rowe Road, all construction and landfill traffic should be required to use the underpass in order to prevent an accumulation of dirt and mud upon the public roadway. Additionally, the reduction of landfill equipment, construction/disposal traffic using the at-grade crossing at Rowe Road would minimize the potential for vehicular accidents. (See Transcript at Page 1164).

Condition 2-B ADS shall continue to aggressively remove leachate from the non-Subtitle D "Old Fill Area" by drilling additional extraction wells, and maintaining pumping withdrawal rates, as necessary to demonstrate leachate head reduction.

Condition 2-C ADS shall sample surface water ponds at least semi-annually for the "G1 List" groundwater indicator parameters in its IEPA permit, irrespective of flow or discharge frequency. ADS shall request a permit modification, if necessary, to report the results of this expanded analysis to IEPA within its surface water discharge monitoring report.

Basis for Condition:

The "Old Fill Area" may serve to allow a migration pathway into the pond areas located south of Parcels A and B. By the removal of any leachate build-up, it would serve to reduce head and would contribute to the "inward gradient landfill" design of the remainder of the Parcels. Stormwater ponds may accumulate contaminants having a potential to migrate to groundwater. Stormwater pond sampling provides an additional monitorable point for assessing landfill containment performance.

ADS currently samples these ponds and should continue to do so.

Condition 2-D Within 180 days of Board approval, if granted, ADS shall provide a triple trap catch basin at discharge outlet(s) of the Transfer Trailer Parking Area. The basin shall be operated & maintained per manufacturer's recommendations to maintain flow capacity and water quality function. Residuals collected by the basin shall be managed

and disposed per applicable State of Illinois regulations. ADS may request an extension to the schedule for this condition only in the event that IEPA permitting, if required, causes a delay in implementation. Such permit applications, if required, shall be submitted to IEPA by ADS within 45 days of Board approval, if granted.

Condition 2-E ADS shall not expand or relocate the area of the Transfer Trailer Parking Area beyond its present area bounded by the east and south fence lines, the northern containment curb, and the existing internal roadway signage to the west. Any expansion or relocation shall be subject to County review and approval.

Basis for Condition:

The potential for leakage from the parking of transfer trailers from oil, diesel fuel, or liquids from stored waste on the trailers presents a potential impact to the surface water runoff quality, both on the site and off site. By limiting the size of the Transfer Trailer Parking Area to its present size, it will reduce the impact of aesthetic views and potential odor problems related to the overnight parking of transfer trailers loaded with waste.

Condition 2-F Any replacement or newly installed treated or untreated leachate storage tank and transfer piping systems shall be equipped with impervious secondary containment. Tank shall have high level alarms and rapid-drawdown level indicator alarms that are wired into the main office or other staffed office to alert personnel to such events. The County shall review any new or replacement tank locations prior to being permitted with IEPA. Secondary containment volume shall be at least 100% of the largest tank within its boundary, plus the volume from a 100-year, 24-hr rainfall. The leachate removal and conveyance system shall be designed and operated at both the vertical and horizontal landfill expansions as an automated pumping system to maintain less than 1 ft. of leachate head level at

all times in the landfill cells.

Basis for Condition:

As leachate is automatically pumped to the leachate storage tanks, additional precautions and warning alerts shall be inherently designed into the units to prevent accidental overflow and release to the environment. The applicant has not depicted additional tank locations in its siting request nor demonstrated that additional tanks will meet the siting criterion.

Condition 2-G ADS and its on-site earthwork contractors shall utilize Ultra Low Sulfur Diesel Fuel (ULSDF) for all heavy equipment used on site when such fuel becomes commercially available from bulk suppliers in the metropolitan Chicago Area.

Condition 2-H ADS shall develop and implement a plan for measuring baseline (background) and operational air quality indicators in the vicinity of the landfill. ADS shall submit this air monitoring plan for County review within 180 days of final unappealable local siting approval if Board approval is granted. The plan shall present locations of air monitoring stations, sampling and analysis protocols, and air quality indicator parameters that represent potential background and landfill-related air emissions. Data collected from the air monitoring program shall be compared to other baseline air monitoring data stations operated by IEPA throughout the State and to NAAQS. Such data comparisons will determine the necessity and frequency of further air monitoring.

Basis for Condition:

ADS indicated that due to the size of the facility and the magnitude of its daily waste receipts, a considerable fleet of diesel-fueled equipment operates at the facility. Recent USEPA studies have indicated a potential health impact to employees subject to excessive amounts of diesel exhaust particulates. ADS has agreed in the course of the hearing and in their post-hearing

comments of John McDonnell to use ULSD in its equipment fleet when it becomes commercially available.

Condition 2-I Within the ADS horizontal landfill expansion application to the IEPA, provide a discussion in the application that addresses a conservative course of action to be taken in the contingent event that an abandoned mine shaft is encountered during Parcel C or D excavation.

Basis for Condition:

Abandoned mines may provide a preferential, un-monitorable migration pathway, if they are not adequately identified and addressed. The siting application indicates two abandoned mines in the area, approximately 2 miles from the facility. Further search is not warranted since all available historical literature has been reviewed. However, the final IEPA development application should provide a discussion on how an abandoned coal shaft would be sealed below or adjacent to a landfill cell. A contingency plan to address this potential situation should be provided for IEPA review in granting a development permit.

Condition 2-J Additional upper sand monitoring wells shall be installed by ADS around Parcels ABC and D as part of the expansion. Final determination of their locations would be dependent on the field verification of the upper sand unit. The proposed number and intended locations of these wells should be included as part of the application prior to submittal to IEPA and shall be subject to County review and comment.

Basis for Condition:

The Application filed in December, 2002 provided for monitoring the middle sand unit and the uppermost aquifer in their monitoring well system. Because the middle and upper sands systems may be hydrogeologically connected off-site, it is recommended that the monitoring network include the upper sands, wherever encountered at the landfill perimeters. Furthermore, the upper sand is documented as being utilized in nearby downgradient residential wells. Monitoring of the upper sand unit is necessary to provide further protection of the local private drinking water and shallow groundwater resources. ADS has stipulated to these additional well

nests in its testimony at the public hearing. (See Transcript at Page 779).

Condition 2-K All stormwater ponds and ditches, including relocated Baker's Run shall be constructed and stabilized with vegetation at least one full growing season prior to being required for landfill cell development.

Basis for Condition:

By constructing stormwater ponds and ditches and stabilizing same prior to their actual intended use, it will further minimize any impact that stormwater will have on the ponds and ditches and correspondingly will minimize potential for downstream surface water quality impacts. This condition shall not reduce the requirement for providing temporary stabilization measures and other stormwater Best Management Practices (BMPs).

Condition 2-L ADS shall obtain at least one and preferably two (2) "back-up" agreement(s) for leachate treatment at facilities (commercial/industrial treatment facilities and other POTWs) other than its current arrangement, in the event that Pontiac WWTP determines that it temporarily or permanently cannot accept leachate for treatment. ADS shall at all times maintain an agreement for one "back-up" leachate treatment facility in addition to the current treatment facility.

Basis for Condition:

The facility will continue to rely on off-site treatment of leachate. Such treatment at a publicly owned facility may be interrupted or terminated due to a variety of different reasons, including flow capacity and regulatory reasons. With the volumes of leachate currently being produced and the volumes of leachate anticipated to be produced in the future, based upon the proposed expansion, it is necessary to have additional leachate treatment agreements in place.

Condition 2-M Two additional upgradient monitoring wells should be installed within the upper sand, middle sand and the uppermost aquifer for both Parcels ABC and D.

These additional wells shall be included in the IEPA permitted monitoring network.

Basis for Condition:

Due to the uncertainty of groundwater flow patterns within the sand units and uppermost aquifer, additional upgradient monitoring wells will provide additional protection of local private drinking water resources. Ongoing dewatering activities has continued to affect the groundwater flow patterns, and a final determination of potential landfill contaminant migration directions has not been established. (See Transcript at Page 1022).

Condition 2-N Within 90 days of the Board's approval, if granted, the private well sampling program as described in the February 8, 1994 County Host Agreement shall be supplemented by ADS to include the following, in addition to those provisions stipulated in the 1994 Host Agreement:

a) All wells within 2000 ft. of the landfill footprint shall be included in the program, subject to owner approval.

b) ADS shall ensure that the landfill dewatering is not affecting the well yield and/or waterquality of any private wells within the host agreement-defined monitoring zone.

c) ADS shall provide a one page fact sheet to the well owner(s) for any primary or secondary groundwater constituent that exceeds Class I Groundwater Standards of 35 IAC Part 620.410 or USEPA maximum contaminant levels (MCLs) when measured by the ADS private well monitoring program. The fact sheet shall utilize published EPA health advisory information for the constituent exceedance(s). Any exceedance of EPA MCLs list shall be reported to the owner and the County within 48 hours of determination with an action plan for further assessment.

d) ADS shall ensure that EPA sampling protocols are

consistently adhered to and that sample interference is minimized and sample integrity is maintained.

e) ADS shall provide an alternate water supply source when yield or water quality is determined to be landfill related impacts. The burden for demonstrating that such impact is not landfill related shall rest with ADS upon notification by the County.

Basis for Condition:

The groundwater flow patterns within the monitoring sand units and uppermost aquifer remains uncertain, due to ongoing dewatering events at the landfill. By adding nearby residential wells that are currently presumed to be cross or upgradient, ADS can further ensure that the local private groundwater resources are protected. There have been several consistently reported private well groundwater quality exceedances for select parameters (e.g., chlorides, manganese, sulfates, and thallium), and their results may be indicative of the aquifer unit. Nonetheless, the private well owner shall be given sufficient factual health related information to assess these results.

Condition 2-0 The GIA model that is required to be performed every 5 years for permit renewal should be conducted using only groundwater data that is under normalized, static conditions.

Basis for Condition:

The GIA model has been utilizing groundwater data with assumptions, due to the ongoing dewatering activities at the landfill. These activities have a significant effect on the hydraulic gradients and flow patterns. By using normalized, static condition data, a more representative GIA model can be developed to predict potential contaminant migration behavior and allow IEPA to consider permit monitoring conditions.

Condition 2-P The geotextile filter fabric above the drainage layer of the leachate collection system shall be at least 8 oz/yd² thickness. Seams of the geotextile shall be overlapped and field sewn on sideslopes.

Basis for Condition:

The applicant has not demonstrated that a geotextile thickness of 4 oz/yd² will meet the performance standards over the life of the landfill and post-closure period. The geotextile filter is essential to prevention of clogging of the leachate collection layer and to assure long-term satisfactory performance of the leachate collection system. ADS stipulated in its testimony that this landfill siting expansion was intended to be consistent with conditions developed for the Streator Area Landfill, Inc. siting approval. The County authorized these conditions in its resolution of the Streator Landfill expansion and such conditions are applicable to the Livingston Landfill expansion, if approved.

Condition 2-Q The typical monitoring well screen detail on Drawing D24 shall be changed to show the minimum well screen length of 5 ft.

Basis for Condition:

IEPA requires a minimum 5 ft. well screen for monitoring well systems.

Condition 2-R The existing leachate collection sumps which require retrofitting due to the "piggyback" filling of Parcel ABC and Parcel D expansions shall be designed with both leachate system tie-in options for redundancy, in the event of failure of the primary tie in. This detail is shown on Drawing D13 and described on pp. 2.3 -17.

Basis for Condition:

The applicant did not provide a technical justification or design basis for selecting one option over another. The applicant has not constructed either of these options at the site, nor proven their functionality. The redundant tie in piping system provides an additional factor of safety and operational certainty for continued collection of leachate in the piggy back expansion areas. The applicant testified that they anticipated installing 2 out of the 3 options. (See Transcript at Page 978).

Condition 2-S Interior HDPE lining in the lower 10 ft. of leachate collection sumps/risers shall be at least 100 mil thickness. Exterior HDPE lining shall be at least 60 mil thickness for entire height of sump/riser.

Basis for Condition:

The Application (Drawing D19) failed to specify the thickness of these liners.

Condition 2-T The vertical and horizontal expansion shall be developed in a cell-by-cell sequencing approach that provides for timely placement of final cover and establishment of permanent vegetation over landfill areas that reach final closure grades. Placement of vegetative cover shall not be delayed beyond a 4 month period to allow settlement. Completed sideslopes shall receive stabilization and vegetative cover prior to the end of each growing season.

Basis for Condition:

In order to minimize water infiltration, production of leachate, siltation and to facilitate an aesthetically acceptable looking landfill, it is important to close and vegetate the landfill as soon as possible.

Condition 2-U The operator shall increase the height of the portable screens used at the active face to a minimum of 20 ft. The width of the portable screens shall extend laterally at least 30 ft. beyond the active filling area(s) (both sides) of the landfill and be downwind of the active face.

Basis for Condition:

ADS stipulated in its testimony that this landfill siting expansion was intended to be consistent with conditions developed for the Streator Area Landfill, Inc. siting approval. The County authorized this condition in its resolution of the Streator Landfill expansion and such conditions are applicable to the Livingston Landfill expansion, if approved.

Condition 2-V For a minimum of 200 days/year, the operator shall continue to employ temporary or permanent employees to pick up litter whenever litter leaves the site, with the "goal" to maintain the I-55/Rte.66 corridor in a reasonably clean manner. Such litter collection programs shall include the continuation of picking up litter from the I-55/Rte. 66 right-of-way__ (ROW) as long as litter from transfer trailers continues to be a problem. The litter picking areas shall include, in particular, but not be limited to, the first 250 ft. of the I-55/Rte. 66 ROW within communities and unincorporated areas of Livingston County. Counties extending north to Interstate 80 shall be picked of litter, as permitted by the applicable authorities. Farm fields adjoining I-55/Rte. 66 corridor shall be picked of landfill/ transfer trailer litter upon request of the property owner or tenant farmer, at least twice per year in Spring and Fall. Discontinuance or reduction of such litter picking shall only be permitted upon further request and approval from the County.

Basis for Condition:

Litter continues to be one of the more day-to-day offensive problems with the facility. The applicants litter picking program and 3 Strikes Program along I-55 has made significant progress in the reduction of litter off-site and should be continued as long as needed.

Condition 2-W Upon submittal of IEPA development and operating permit applications for the Parcel ABC and D horizontal expansions, ADS shall increase its Contingent Closure Cost Estimate and Financial Assurance to account for refilling below grade landfill areas with clean fill soil assuming 3rd party implementation and unit costs for earthwork published in technical literature sources at the time of the cost estimate.

Basis for Condition:

ADS contingent cost estimate for a premature or contingent

closure event did not include the costs for returning partially developed below grade landfills to grade. The cost and financial assurance should not assume that waste can continue to be placed to achieve grade, but must instead assume that clean soil fill must be imported.

III. Criterion Number 3: The Facility Is Located So As To Minimize Incompatibility With The Character Of The Surrounding Area And To Minimize The Effect On The Value Of The Surrounding Property

The Agricultural Hearing Committee heard testimony from two different witnesses in regard to this criterion number 3. J.

Christopher Lannert supplied testimony that the facility is so located so as to minimize incompatibility with the character of the surrounding area. He further testified that by the planting of various plant materials around the base of the landfill, that the incompatibility would be further minimized.

Peter Poletti testified on behalf of the applicant ADS in regard to the second portion of this criterion, that the location of the facility would minimize the effect on the value of the surrounding property. He further testified as to how he formed his analysis and the fact that the property protection plan has been implemented a number of times to help to minimize any impact on property values.

Condition 3-A The Applicant shall not store loaded transfer trailers anywhere upon the site other than the designated Transfer Trailer Parking Area. Transfer trailers shall not be stored when loaded with municipal solid waste for a period of more than 24 hours.

Condition 3-B Within 180 days of Board approval, if granted, an opaque fence, subject to County review and approval, shall be installed around the Transfer Trailer Parking Area and at the entrance area located on Illinois Route 23. This fence shall be compatible with, and in addition to the landscaping

as identified in the Application. Landscape improvements in this area of the entrance and along Route 23 and Rowe Rd. shall be conducted within the 1st planting season of County Board approval, if granted.

Basis for Conditions:

ADS indicated that landscape buffering was necessary to "minimize incompatibility" with the surrounding area. Visual impacts along Route 23 and Rowe Rd. should be given initial priority. Specifically J. Christopher Lannert testified that the ADS could install an opaque fence around the trailer parking area. (See Transcript at Page 550).

Condition 3-C All landscaping as described in the Application shall be installed within one planting season of approval by the IEPA of the proposed expansion. In areas where no such activities are anticipated within the next two years, said landscaping may be deferred to the following planting season. All landscaping materials shall be inspected periodically. Any material that does not survive or propagate shall be replaced within one planting season for the life of the facility. Plant selection and density shall comply with the Siting application renderings and plant lists prepared by Lannert, unless otherwise approved by the County.

Basis for Condition:

ADS, through J. Christopher Lannert indicated that landscape buffering was necessary to "minimize incompatibility" with the surrounding area and that he recommended that it be installed at the next planting season in order to give the greatest benefit.

Condition 3-D In the event that the gas to energy plant discontinues operating for a period of greater than 3 months consecutively, and flare units are utilized, the back-up external LFG flare units shall be retro-fitted or replaced with enclosed flare units within 180 days of their continued use. Enclosed flare units shall be permanently installed prior to the County or other local entity establishing an end-use on the site.

Basis for Condition:

The visual impact of seeing flare units burning, particularly at night, is further minimized by the installation of enclosed flare units. Although the flare units are not currently being utilized, this requirement would only be implemented if they began to be utilized.

Condition 3-E ADS shall advise the County, in writing, of all significant permit modifications for consistency with all siting conditions prior to their submittal to IEPA for consideration. All permit modification applications submitted by ADS to IEPA shall incorporate by reference these final siting conditions, as adopted by the Board.

Basis for Condition:

By reviewing all proposed significant modifications with the County prior to their submittal with the IEPA, it will assure both ADS and the County that all conditions of siting are being met or will be met by the submittal. It will also help to facilitate effective communication between the County and ADS so that the County knows what is being planned and implemented at the site that may not have been addressed previously. (See Transcript at Page 194).

Condition 3-F Construction and site preparation activities may not take place more than 1 hour before or after the IEPA permitted waste acceptance hours of 5:30 AM to 6:30 PM, on Monday through Saturday, unless otherwise approved by the County.

Basis for Condition:

The operation of heavy equipment during evening, night or early morning hours particularly impact surrounding areas because the noise seems to travel further at night. By reducing or eliminating this noise at hours when people are most likely to be outside relaxing or otherwise participating in recreational activities, it will further minimize impact on the character of the surrounding area.

Condition 3-G No off-site stockpile areas or borrow areas shall be used other than what is located upon the proposed 730 acre boundary. When areas are used

for stockpiling or borrow areas, they shall be temporarily vegetated when planned to be idle, in whole or in part, for more than 120 days.

Basis for Condition:

ADS has indicated that they will not have to access property other than the 730 acres for the purpose of stockpiling or a borrow area, thereby limiting the impact to the surrounding area to that of the 730 acres. (See Transcript at Page 214).

Condition 3-H Within 180 days of Board approval, if granted, ADS shall install and operate an outbound truck inspection and cleaning station to facilitate removal of litter and debris from trucks, and to ensure legible call-in number signage on trucks before departing the site onto public roads. This station shall provide signage to drivers requiring that they stop for inspection. Each outbound truck shall be inspected. OSHA compliant platforms and stairs shall be provided to further facilitate efficiency and safety at this station. The area shall be equipped with containerized storage for debris. ADS may request an extension to the schedule for this condition only in the event that IEPA permitting, if required, causes a delay in implementation. Such permit applications, if required, shall be submitted to IEPA by ADS within 45 days of Board approval, if granted. While obtaining IEPA permits, if required, ADS shall continue its current interim practice of truck inspection and cleanout.

Basis for Condition:

ADS indicated in its testimony by Dave Bryant that these truck inspection procedures have been implemented at the facility in an effort to reduce litter escape on public roads. This condition further promotes the procedure by establishing a routine inspection platform for drivers to recognize and abide by.

Condition 3-I In the event that ADS shall acquire and/or lease all or a portion of the Mackinson Property, ADS Within 30 days of such acquisition or lease shall provide a deed or lease restriction permanently noted on the property records to preclude any

development of the Mackinson property for landfill disposal or support facilities in the future on the property shown as Concept End Use Plans (NE I-55 and Rte. 23 corridor).

Basis for Condition:

This area has been shown by ADS to be reserved for end-use plans that are non-related to landfill activities. Furthermore, the reservation of the property for non-landfill purposes will allow development to take place in the future at the intersection of I-55 and Rte. 23.

Condition 3-J The landfill gas extraction points shall be converted to below grade structures upon development of an end use plan for the site.

Basis for Condition:

The removal of visible gas extraction points to below-grade will further help to minimize the impact upon the surrounding area and provide for end-use planning. This condition was stipulated in testimony by Devin Moose. (See Transcript at Page 984).

Condition 3-K ADS shall install various bushes and shrubs and shallow root system trees upon stable final landfill cover areas and cover terraces on an experimental permit basis as approved by the County and IEPA. Said plant material shall be specifically approved by a Landscape Architect as being appropriate for planting on a landfill cap.

Basis for Condition:

The planting of shallow root trees, bushes and shrubs will further minimize impact to the surrounding area by "breaking up" the uniform shaped, grassy "hill". (See Transcript at Page 555 as to feasibility).

Condition 3-L Within 10 days of Board approval, if granted, ADS shall formalize its "Three Strikes and You're Out" policy as it relates to the tarping of transfer trailers in a written plan. Said plan shall be reviewed by the County prior to its required

distribution to haulers. The written plan, subject to County review and comment, shall include, but not necessarily be limited to:

- a) Tarping performance standards.
- b) Signage and call-in placarding requirements that ensures each trailer contains a legible, prominently displayed toll-free call-in number to report litter escape. Each trailer shall be numbered with a unique identifying number having 12-inch number/letter size in a standard location on the trailer.
- c) Enforcement & driver violation policy

The tarping policy shall establish that a "strike" shall be assigned to drivers that receive call-ins to ADS for litter escape, loose tarps, and tarp adjustments made just prior to entering the site. Additionally, as part of the written plan, ADS shall provide certified mail notices to Livingston County municipalities and townships which adjoin the I-55 corridor providing them with a call-in number to report litter accumulation and request ADS action. ADS shall maintain a log of driver violations and call-ins and shall produce copies of the log upon request of the County.

Basis for Condition:

ADS has indicated that it will continue to penalize haulers for failing to adequately tarp transfer trailers. Said policy should be reduced to a formal written plan, as opposed to a "letter" policy and should be updated periodically, as needed.

Condition 3-M ADS and its contract operator may not expand the Landfill Gas (LFG) to energy plant in any manner without prior County review and approval, which approval shall not be unreasonably withheld.

Basis for Condition:

Although ADS is not presently proposing an expansion of the LFG to energy plant, any such expansion in the future could potentially impact Livingston County residents. Accordingly, because the plant is an integral part of the landfill operation,

the County should be entitled to review and approve any expansion of the plant.

Condition 3-N At the time the County or another entity develops and implements an end-use plan for the site, the LFG to Energy plant shall be retro-fitted with additional buffering and noise mitigation measures.

Basis for Condition:

The LFG to energy plant has not been designed and is not being operated for compatibility with public end-use of the closed landfill site. In that the LFG to energy plant will be operating long after the termination of disposal into the landfill, it is important to minimize any impact at the point in time that an end use plan is implemented.

Condition 3-0 ADS shall design, permit, operate and maintain alternate surface water management features other than the rip-rap lined down chutes shown on Drawing D27. Such alternate design shall be more aesthetically and visually compatible while maintaining functionality and effective stormwater conveyance.

Basis for Condition:

The rip-rap lined down chutes visually contribute to the "plain hill" look of the landfill and require significant maintenance. A more aesthetically appealing look would minimize impact to the character of the surrounding area.

IV. Criterion 4: The Facility Is Located Outside The Boundary Of The 100

The applicant, through Mr. Devin Moose testified that the facility was located outside of the 100 year floodplain. No proposed conditions.

V. Criterion Number 5: The Plan of Operations For The Facility Is Designed To Minimize The Danger To The Surrounding Area From Fire, Spills, Or Other Operational Accidents

Mr. Dave Bryant testified about the current operations of

the facility and how the proposed expansion would continue to be operated to reduce danger from fires, spills, and other operational accidents.

Condition 5-A ADS shall install, or continue to maintain methane monitors in all buildings and the scale house. A radioactive material detector shall be installed, and/or maintained at the scale as long as waste is being received at the facility.

Basis for Condition:

Continued monitoring is important to maintain protection against fires, spills or other operational accidents. These monitors are currently in place and should continue to be used in order to effectively monitor the site.

Condition 5-B ADS shall complete installation of the Phase 4 Gas mitigation slurry wall cut-off by November 1, 2003.

Basis for Condition:

The Phase 4 Gas mitigation slurry wall cut-off has already been approved by the IEPA. Continued gas migration problems in and around the "old fill area" as identified by landfill gas probe exceedances require installation of this slurry wall in an expedited manner during this forthcoming construction season. Dave Bryant testified that the slurry wall would be installed this summer. (See Transcript at Page 1240).

Condition 5-C The facility's pollution prevention team and emergency response plans shall be updated within 90 days of Board approval, if granted. Such plans shall utilize current staffing and shall add at least two (2) emergency response contractor agreements.

Basis for Condition:

The plan shows outdated personnel and needs to be updated periodically.

Condition 5-D A back-up manager shall be trained and certified by IEPA as a Landfill Site Manager.

Basis for Condition:

A back-up manager for a site of this size should be fully certified and approved so as to have a certified manager on site at all times of waste receipt or other active operations are ongoing.

Condition 5-E ADS shall maintain an inventory of back-up auxiliary leachate extraction pumps and a portable generator on the site, so as to provide for leachate extraction in times of power outages or malfunction of primary systems.

Basis for Condition:

The importance of maintaining 1 foot or less of leachate at the base of the landfill is important so as to reduce the amount of head on the leachate as well as to maintain an inward gradient landfill.

Condition 5-F Within 180 days of Board approval, if granted, ADS shall install two (2) additional monitoring wells on the east side of Parcel A and shall incorporate these wells into its IEPA monitoring program.

Basis for Condition:

Additional monitoring wells located on the east side of Parcel A will provide an early detection of impacts from the old fill area. Additional monitoring wells would give further assurances of no groundwater impacts and were agreed to by ADS during the course of the hearings. (See Transcript at Page 1022).

Condition 5-G Wood debris stockpiles used for alternate daily cover and road building shall be managed to preclude release of fugitive emissions during loading, unloading, and processing. Wood debris piles shall not be placed on areas that do not have at least 24-inches of soil cover separation between waste and wood debris to minimize the potential for waste mass ignition in the event of a wood debris fire. Wood debris stockpiles shall not exceed a height of 10 ft. and a width of 20

ft. to minimize internal temperatures and allow for extinguishment in the event of fire.

Basis for Condition:

ADS experienced a woodpile debris fire in 2003 which raised awareness of the issue of wood debris stockpiling. The wood debris stockpiles at the site represent a substantial volume of combustible material. Sources of the wood debris include demolition debris containing various sources of co-mingled dusty materials. Internal temperatures within the debris can become elevated due to decomposition. The potential for an underground landfill fire exists if adequate surface debris separation is not maintained. Limiting the size of the wood debris stockpiles provides an opportunity for more controlled management and extinguishment in the event of ignition.

VI. Criterion Number 6: The Traffic Patterns To Or From The Facility Are So Designed As To Minimize The Impact On Existing Traffic Flows

The applicant, ADS presented testimony in support of criterion 6 from Michael Friend. He testified as to the structural capacities of the roadways, the vehicular capacities, the construction of the entrances and intersections as well as safety. As a result of his review, he recommended intersection upgrades to the landfill entrance and to the Row Road/Rte 23 intersection as well as an underpass to be constructed prior to development of Parcel C. Additionally he recommended the installation of a truck wheel wash to assist in the removal of any mud or debris from the underside of landfill vehicles prior to their departure from the site.

Condition 6-A The Parcel C landfill expansion shall not proceed without the underpass being completed. ADS shall install the Rowe Road underpass prior to any landfill development of Parcel C. The design of the underpass shall include a detailed safety analysis with safety provisions, line of sight analysis for trucks and heavy equipment volumes and rates of queuing that will pass through the underpass on internal landfill roads during maximum waste receipt times.

Basis for Condition:

ADS has not demonstrated that the Parcel C expansion will meet Criterion 5 and 6 without the underpass completed. Michael Friend further testified that he recommended such an underpass and that it be constructed prior to the development of Parcel C.

Condition 6-B Once the Rowe Road underpass is completed, ADS shall install access restrictions to prohibit landfill construction equipment from crossing Rowe Road at grade level.

Basis for Condition:

The actual usage of the Rowe Road underpass is imperative to its effectiveness.

Condition 6-C ADS shall install new truck wheel wash facility as described in siting application. Spent wheel wash wastewater shall be managed as leachate due to the potential for high solids and oil/grease content.

Basis for Condition:

The proposal by ADS to install a truck wheel wash unit was determined by Michael Friend, its traffic consultant to be necessary to meet Criterion 6. ADS must have an acceptable plan to manage spent wheel wash water to prevent discharge and potential water quality impacts. Rather than considerable sampling and analysis, it is recommended that this water be managed in similar manner as waste-contact water or leachate. (See Transcript at Page 1164).

Condition 6-D Construction of the left turn lane improvements shall be targeted for completion during 2004, subject to IDOT approvals. Additionally, ADS shall install a street light at intersection of Rowe Road and Rte. 23 simultaneously with intersection improvements, subject to IDOT approval. Said installation shall be coordinated so as to minimize impact on local traffic during construction. Variances/extensions to this completion schedule,

in the event of force majeure shall be submitted by ADS for County review and approval.

Basis for Condition:

As proposed by ADS, left turn lanes should be installed to minimize the impact upon existing traffic.

(See Transcript at Page 1163).

VII. Criterion 7—Hazardous Waste Emergency Response Plan

No conditions are recommended for this Criterion at that hazardous waste is not proposed to be accepted at this site.

VIII. Criterion 8—Consistent w/ County Solid Waste Plan

Mr. Philip Kowalski testified that the proposed expansion is in conformance with Livingston County's solid waste plan, as updated.

Condition 8-A Within 90 days of Board action on this application, ADS shall submit a plan to the County to establish and maintain a public recycling drop off center(s) as required by the February 15, 2001 Amendment to County Host Agreement condition 5(a). Such facility plan shall be reviewed and approved by the County and shall incorporate County and local government recommendations with respect to location, design, housekeeping/maintenance, collection and schedule of delivery to the secondary materials market.

Basis for Condition:

Host Agreement condition that has not been implemented. This facility will assist in advancing the County's recycling goals.

IX. Criterion 9—Regulated Recharge Area Location

No conditions are recommended for this criterion in that the only regulated recharge area in the State of Illinois is located near

Basis for Condition:

Host Agreement condition that has not been implemented. This facility will assist in advancing the County's recycling goals.

IX. Criterion 9—Regulated Recharge Area Location

No conditions are recommended for this criterion in that the only regulated recharge area in the State of Illinois is located near Peoria..


X. Criterion 10—Prior Operating Experience & Convictions

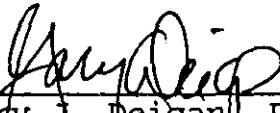
No conditions are recommended for this Criterion.

**RESPECTIVELY SUBMITTED TO THE LIVINGSTON
COUNTY AGRICULTURAL & ZONING COMMITTEE**


Charles T. Schopp, Administrator
Livingston County Regional Planning Commission
Dated: May 2, 2003


Larry M. Clark, Special Assistant State's Attorney
Dated: May 2, 2003


Kerry W. Van Allen, Geology/Hydrogeology Consultant
Deigan & Associates, LLC
Dated: May 2, 2003


Gary J. Deigan, Principal/ Solid Waste Consultant
Deigan & Associates, LLC
Dated: May 2, 2003

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 24 2003

STATE OF ILLINOIS
Pollution Control Board

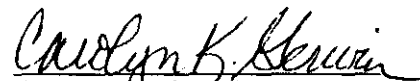
Citizens Against Landfill Expansion,)
Petitioners)
v.)
American Disposal Services of Illinois, Inc.,)
Respondent,)
and)
Livingston County Board, Livingston County,)
Illinois, Respondent)

No. PCB 03-236

NOTICE OF APPEARANCE

Carolyn Gerwin hereby appears in the above-captioned matter on behalf of
Citizens Against Landfill Expansion, Petitioner, on this 19th day of June, 2003.

Respectfully submitted,


Carolyn K. Gerwin

Carolyn K. Gerwin
Attorney at Law
705 South Locust Street
Pontiac, Illinois 61764
(815) 842-2486

CERTIFICATE OF FILING AND SERVICE

I hereby certify that I have filed and served the foregoing Petition for Review and Notice of Appearance as follows:

On June 19, 2003, I mailed one original and 9 copies thereof to the Illinois Pollution Control Board, by U.S. Mail, return receipt requested and postage prepaid, to:

Illinois Pollution Control Board:

Pollution Control Board
Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

On June 19, 2003, I sent a copy thereof by U.S. Mail, return receipt requested and postage prepaid, to:

Respondent American Disposal Services of Illinois, Inc.:

Douglas E. Lee, Esq.
Ehrmann, Gehlbach, Badger & Lee
Commerce Towers, Suite 100
Dixon, Illinois 61021

David Bryant
General Manager
American Disposal Services of Illinois, Inc.
P.O. Box 646
Rural Route 3
Pontiac, Illinois 61764-0646

John W. McDonnell, P.E.
Environmental Manager
Allied Waste Industries, Inc.
13701 Kostner
Crestwood, Illinois 60445

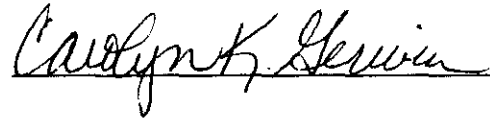
Respondent Livingston County Board:

C. Thomas Blakeman
Strong, Blakeman & Schrock
307 West Washington Street
Pontiac, Illinois 61764

On June 19, 2003, I hand-delivered a copy thereof to the Office of the Livingston County Clerk, 112 West Madison, Pontiac, Illinois, addressed to:

Respondent Livingston County Board:

Livingston County Board
Jeanne Rapp, Chairman

A handwritten signature in cursive script that reads "Carolyn K. Gerwin". The signature is written in black ink and is positioned to the right of the recipient information.

CAROLYN GERWIN
CITIZENS AGAINST LANDFILL EXPANSION
705 S. LOCUST (815) 842-2486
PONTIAC, IL 61764

70-2226/711
910074

No. 313

~~DATE~~ June 19, 2003

Pay to the order of Illinois Pollution Control Board \$ 75.00
Seventy - Five and ^{NO} /100



Bank of Pontiac
Pontiac, Illinois 61764

~~MEMO~~ Filing Fee

Carolyn K. Gerwin MP

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