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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

SUTTER SANITATION, INC. and)
LAVONNE HAKER,)
Petitioners,)
v.) PCB No. 04-187
ILLINOIS ENVIRONMENTAL) (Permit Appeal)
PROTECTION AGENCY,)
Respondent.)

NOTICE

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Carol Sudman, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue, East
P.O. Box 19274
Springfield, IL 62794-9274

Charles J. Northrup
Sorling, Northrup, Hanna
Cullen & Cochran, Ltd.
Suite 800 Illinois Building
P.O. Box 5131
Springfield, IL 62705

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a MOTION FOR ORDER OF PROTECTION AND PRIVILEGE LOG, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: June 3, 2004

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Pollution Control Board

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LAVONNE HAKER,)	
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v.)	PCB No. 04-187
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MOTION FOR ORDER OF PROTECTION AND PRIVILEGE LOG

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, John J. Kim, Assistant Counsel and Special Assistant Attorney General, and hereby presents the Hearing Officer with the following motion for order of protection for documents from disclosure and accompanying privilege log. In support of this motion for order of protection, the Illinois EPA provides as follows.

1. The documents listed in the privilege log are all communications between in-house attorneys representing the Illinois EPA and the Manager of the Illinois EPA's Bureau of Land Permit Section ("Manager") and a permit reviewer employed by the Illinois EPA.

2. As such, the documents are attorney-client privileged communications and attorney work product prepared in anticipation of litigation. The documents have not been disseminated to the general public and were generated as part of the internal review process of the Illinois EPA. Specifically, the documents represent legal counsel provided to the Manager.

3. For these reasons, the Illinois EPA seeks an order of protection from the Hearing Officer, deeming that the documents be withheld from disclosure.

4. Privilege Log (documents listed below are provided only to Hearing Officer for in-camera review):

Document description

Justification for protection from disclosure

1/6/04 memorandum

Legal memorandum from Kyle Davis to Joyce Munie of Illinois EPA's permit section. Contains legal interpretation of statute(s) relevant to review of permit application that is the subject of the present appeal. Memorandum is pages 108 through 112 of Administrative Record ("AR").

3/25/04 memorandum

Legal memorandum from John Kim to Joyce Munie and Sallie Springer. Contains legal interpretation of statute(s) relevant to review of permit application that is the subject of the present appeal. Memorandum is pages 116 through 122 of AR.

5. For the reasons stated herein, the Illinois EPA hereby respectfully requests that the Hearing Officer enter an order of protection, preventing the above-described documents from disclosure through discovery in the present appeal.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
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Dated: June 3, 2004

This filing submitted on recycled paper.

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on June 3, 2004, , I served true and correct copies of a MOTION FOR ORDER OF PROTECTION AND PRIVILEGE LOG, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class Mail postage affixed thereto, upon the following named persons:


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

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