

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD APR 22 2004

WASTE MANAGEMENT OF ILLINOIS, INC., )

Petitioner, )

vs. )

COUNTY BOARD OF KANKAKEE COUNTY, )  
ILLINOIS, )

Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

No. PCB 04-186

(Pollution Control Facility  
Siting Appeal)

**NOTICE OF FILING PETITION FOR HEARING  
TO CONTEST SITE LOCATION DENIAL**

TO: See Attached Service List

PLEASE TAKE NOTICE that on April 21, 2004, we filed with the Illinois Pollution Control Board, the attached Waste Management of Illinois, Inc.'s **PETITION FOR HEARING TO CONTEST SITE LOCATION DENIAL**.

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

One of Its Attorneys

Donald J. Moran  
PEDERSEN & HOUP  
161 North Clark Street, Suite 3100  
Chicago, Illinois 60601  
(312) 641-6888  
Attorney Registration No. 1953923

**PROOF OF SERVICE**

Victoria L. Kennedy, a non-attorney, on oath states that she served the foregoing **Waste Management of Illinois, Inc.'s Petition for Hearing to Contest Site Location Denial** by enclosing same in an envelope addressed to the following parties as stated below, and by depositing same in the U.S. mail at 161 N. Clark St., Chicago, Illinois 60601, on or before 5:00 p.m. on this 21st day of April, 2004:

Mr. Charles F. Helsten  
Hinshaw & Culbertson  
P.O. Box 1389  
Rockford, IL 61105-1389

Mr. Edward Smith  
Kankakee County State's Attorney  
450 East Court Street  
Kankakee, IL 60901

Mr. George Mueller  
George Mueller, P.C.  
501 State Street  
Ottawa, IL 61350

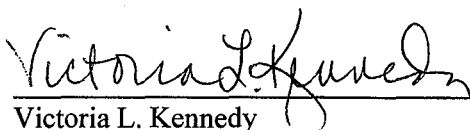
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Suite 1600  
Chicago, IL 60604-2827

  
Victoria L. Kennedy

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD APR 22 2004

STATE OF ILLINOIS  
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC., )

Petitioner, )

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COUNTY BOARD OF KANKAKEE COUNTY, )  
ILLINOIS, )

Respondent. )

No. PCB 04- 186

(Pollution Control Facility  
Siting Appeal)

**PETITION FOR HEARING  
TO CONTEST SITE LOCATION DENIAL**

Petitioner Waste Management of Illinois, Inc., ("WMII"), by Pedersen & Houpt, its attorneys, respectfully requests a hearing to contest the decision of the County Board of Kankakee County, Illinois ("County Board") denying site location approval for the proposed expansion of the Kankakee Landfill. In support of this Petition, WMII states as follows:

1. This Petition is filed pursuant to Section 40.1(a) of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/40.1).

2. On September 26, 2003, WMII filed a Site Location Application for Expansion of the Kankakee Landfill with the County Board ("2003 Application"). This was a refiling of the Site Location Application for Expansion of the Kankakee Landfill filed August 16, 2002 ("2002 Application"). The 2002 Application was approved by the County Board on January 31, 2003, but reversed by the Pollution Control Board on August 7, 2003, on the jurisdictional ground that one property owner was not properly served pre-filing notice.

3. The 2003 Application was essentially the same request as the 2002 Application, and sought site location approval for an approximate 302-acre expansion of the existing Kankakee solid waste landfill, located in unincorporated Kankakee County, Illinois.

4. Public hearings were conducted by the Kankakee County Regional Planning Commission ("RPC"), and were held from January 12 to January 21, 2004. The entire record of the 2002 Application was submitted in support of the 2003 Application. The RPC submitted a 49 page report setting forth its findings and recommendations that the 2003 Application be approved.

5. On March 17, 2004, the County Board considered the 2003 Application, and voted to approve each of the statutory criteria except criteria one, three and six. A written decision denying the 2003 Application was prepared and filed with the County Clerk on March 25, 2004. A true and correct copy of the decision ("March 25 Decision") is attached as Exhibit A.

6. WMII submitted and the County Board agreed to consider a motion to renew consideration of the 2003 Application. On April 13, 2004, the County Board deadlocked on the motion in a 13-13 vote. The motion to renew may be reviewed and placed on the County Board's agenda at its May 11, 2004 meeting.

7. To the extent the March 25 Decision is final and appealable, WMII contests this decision and its denial of criteria one, three and six as fundamentally unfair, unsupported by the record and against the manifest weight of the evidence.

8. In the event the March 25 Decision is not final and appealable due to the County Board's reconsideration or further action on the motion to renew, WMII recognizes that this petition for review may be premature.

WHEREFORE, WMII respectfully requests that the Board enter an order (a) setting for hearing this contest of the County Board siting denial decision, (b) reversing the County Board siting denial decision, or, in the alternative, (c) dismissing this petition as premature in the event the March 25 decision is not final and appealable.

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By 

One of Its Attorneys

Donald J. Moran  
PEDERSEN & HOUP  
Attorneys for Petitioner  
161 N. Clark Street  
Suite 3100  
Chicago, IL 60601  
Telephone: (312) 641-6888

#040325-114

FILED

**KANKAKEE COUNTY BOARD**

04 MAR 25 AM 8:18

Decision Regarding the Application of Waste Management of Illinois, Inc.  
For Local Siting Approval of an Expansion of the Existing Kankakee Landfill

Whereas, on September 26, 2003, Waste Management of Illinois, Inc. (WMI) filed an application for local siting approval for an expansion of its existing Kankakee Landfill; and

Whereas public hearings have been held on the application, before Hearing Officer John McCarthy, and public comments filed or postmarked by February 20, 2004 have been received; and

Whereas the Kankakee County Regional Planning Commission (KCRPC) has, pursuant to the Kankakee County Siting Ordinance for Pollution Control Facilities (Siting Ordinance), considered the application and the siting record, and has made findings and recommendations to the Kankakee County Board (Board) (see attached Exhibit A); and

Whereas, the KCRPC voted, pursuant to state law and the Siting Ordinance to also consider two comments filed after February 20, 2004, but no comments filed after March 2, 2004; and

Whereas the Board has considered the record of the siting proceeding, including, but not limited to, the testimony, exhibits, and comment given at the public hearings, the application, and the public comments; and

Whereas, the Board has also received and considered the recommendations of the KCRPC; and

Whereas, pursuant to state statute (415 ILCS 5/39.2) and the Siting Ordinance, the Board is to determine compliance or noncompliance with the statutory criteria of Section 39.2 of the Environmental Protection Act;

**IT IS HEREBY DETERMINED:****Jurisdiction**

The Board finds that all jurisdictional requirements have been satisfied. Thus, the Board has jurisdiction to consider WMI's application.

**Fundamental Fairness**

The Board finds that the proceedings have been conducted in a fundamentally fair manner.

**EXHIBIT**A

### Statutory Criteria

Section 39.2(a) of the Illinois Environmental Protection Act requires that an applicant for local siting approval demonstrate compliance with nine criteria.

1. Whether the facility is necessary to accommodate the waste needs of the area it is intended to serve. The KCRPC recommended that criterion one be found to be satisfied, subject to a special condition. A motion that the Board adopt the KCRPC's recommendation failed on a vote of 12 in favor and 16 opposed. Having no additional motions, the Board finds that criterion one is not satisfied.
2. Whether the facility is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected. The KCRPC found criterion two is satisfied, subject to special conditions. A motion that the Board adopt the KCRPC recommendation passed on a vote of 22 in favor and 6 opposed. The Board finds that the proposed facility is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected. However, that finding is based upon the imposition of the following special conditions:
  - a. There shall be no vertical expansion of the existing facility.
  - b. The lateral expansion must be considered a separate unit from the existing landfill, as defined in 35 Ill. Adm. Code 810.103, and separate groundwater monitoring networks shall be maintained for the expansion and for the existing landfill.
  - c. A field verification must be performed to locate all private wells and community wells, currently used as a source of potable water, located within 1,000 feet of all boundaries of the property.
  - d. Downgradient monitoring well spacing in the uppermost aquifer (regardless of gradient) must be provided, where adjacent potable water supply wells are located in the Dolomite.
  - e. Any and all sand deposits that are one foot thick, twenty feet wide, and/or yield water for a period of more than 24 hours must be monitored as potential contaminant migration pathways.
  - f. Leachate shall not be recirculated for a period of at least five years after the receipt of the operating permit. Following this period, the landfill operator may petition the County Board to recirculate leachate. The County staff shall review the operational record of the site and consult with an independent technical expert to determine if the operator has demonstrated that leachate recirculation is a safe and appropriate method to handle the leachate at this facility. Reasonable expenses of the

technical expert shall be reimbursed by the landfill operator. Leachate may not be recirculated without the express approval of the County Board.

- g. Soil bioremediation and solidification of waste is prohibited at the facility, unless expressly approved in writing by the County Board.
- h. Composting of waste is prohibited at the facility, unless expressly approved in writing by the County Board.
- i. An annual topographic survey of existing waste grades and elevations, of final permitted waste grades and elevations, and final permitted contours shall be conducted by the operator. Results of each annual survey must be submitted to the County Planning Director within thirty days thereafter to ensure ongoing compliance with permit conditions at the facility.
- j. The construction quality assurance (CQA) officer shall be physically present on the landfill site a minimum of once per week during each stage of critical liner construction including: 1) preparation of sub-grade; 2) low permeability soil liner construction; 3) geomembrane installation; 4) geotextile placement; 5) granular drainage layer construction; 6) leachate system and associated piping installation; 7) final cover construction; and 8) gas system installation. Documents signed and dated by the CQA officer must be maintained evidencing his or her physical presence, and must be made available to the County upon request. Technicians utilized shall have at least five years experience and shall be approved by the County Planning Director.
- k. The active face must not exceed an area approved by the County Planning Director. If the operator believes the approved area is not adequate for operations, the operator may petition the County Board for allowance of a larger active face area.
- l. An independent professional engineer (approved by the County Planning Director) shall be on-site to observe placement of the sand drainage layer and the initial lift of waste placed in any new cell. The engineer shall report directly to the County Planning Director, and shall have the authority to stop placement of sand or waste during this initial operation if he or she observes any condition that would or could damage the bottom liner.
- m. Trucks, trailers, or any other vehicle holding waste shall not be parked or stored overnight at the facility, or staged on Route 45/52, or on the right-of-way outside of the landfill facility.
- n. Fencing around the entire facility is required to prevent unauthorized access. An eight-foot high wooden or other view-obstructing, County-



acceptable fence shall be constructed on the east side of the property to help block the view of the site. As cells are developed, the fence shall be extended to encompass, at a minimum, the waste footprint, with the fence eventually encompassing the entire facility.

- o. Video recordings of all traffic entering the site shall be retained for a period of at least six months. The County shall have the right to review the recordings within two days of requesting to review a tape.
- p. The minimum number of random load inspections shall be three per week as specified in state regulations. For any amount of tonnage received above an average of 500 tons per day, the number of inspections shall be increased on the following basis:

For each 500 ton per day average increase, the number of random weekly inspections shall be increased by two. For example, if up to 1000 tons per day average is accepted the previous week, the week shall have five inspections (three inspections for the first 500 tons, and two for the next 500). If the weekly rate is 2000 tons per day, the inspection rate is three plus two plus two plus two, to equal nine random inspections.

After five years of operation, the landfill operator may request a review and reconsideration of this random inspection requirement by the County Board. An authorized County official shall have the right to inspect and to be present at any random load inspection.

- q. The landfill operator shall pick up litter on a daily basis along Route 45/52 between the landfill and the I-57 interchange, as well as at least one-quarter mile south of the landfill along Route 45/52. If allowed by adjacent property owners, the landfill operator shall remove any litter attributable to the landfill on those adjacent properties on a weekly basis. Perimeter picking on site shall be performed daily to remove litter from trees, fencing, and berms.
- r. The landfill operator shall install a radiation detector at the scale house. The landfill operator shall record any alarm, and notify the County of each occurrence, the level of radiation detected, and the manner of response.
- s. The maximum height of the landfill, and the lateral extent of the landfill, shall not exceed the height and lateral extent shown on the plans provided in the application.
- t. A Groundwater Impact Assessment (GIA) must be submitted to the

County and its consultants prior to the submittal of a development permit application to IEPA. The landfill owner/operator shall reimburse the County for reasonable and necessary costs incurred in review of the GIA.

- u. Copies of the development permit application and all subsequent permit applications and required submittals to IEPA shall be submitted to the County Planning Director at the same time the applications are submitted to IEPA, at no cost to the County. All permits issued for the facility shall be copied and submitted to the County Planning Director within 30 days after any such permit is received by the landfill owner/operator.
- v. The landfill operator shall build the berms on the west side of the property at least 1,000 feet in advance of any cell construction, measured from the southernmost coordinate of the cell. For example, if the cell's southernmost coordinate is S 3500, then the berm shall extend to S 4500 or further south. The only exception to this condition is during the construction of Phase I.
- w. The gas line that is to be relocated shall be fully sealed from any potential migration from the landfill. Only fine-grained material shall be used as backfill in the trench. The construction shall be certified by an independent professional engineer, such engineer to be approved by the County Planning Director.
- x. Proof of each equipment operator's training shall be provided to the County Planning Director prior to that operator's work at the site.
- y. The landfill operator shall notify the County Planning Director seven days prior to collecting any required sampling or resampling. The landfill operator shall provide the County with split samples for chemical analysis. The County shall select the laboratory to which its sample(s) are sent for chemical analysis. The landfill operator shall reimburse the County for the reasonable and necessary costs of such testing and analyses, provided, however, that such reimbursement shall not exceed \$10,000 per calendar year, adjust annually for the Chicago/Gary Metropolitan Area Consumer Price Index.
- z. The landfill operator shall not request the use of sewage sludge as a component of final cover in its IEPA permit application without first obtaining County Board approval of such use.
- aa. An automatic monitoring system shall be installed to monitor the level of leachate from each leachate sump area. The system shall record the head in the sump such that at no time will the leachate level be allowed to rise above the level that corresponds to one foot of head on the liner. The landfill operator shall maintain the records from the automatic monitoring

system, and make those records accessible to the County.

- bb. The leachate containment area surrounding the leachate holding tanks shall be sized appropriately to handle a potential spill volume equal to all tanks present, unless the operator can demonstrate to IEPA that such a requirement promotes operational safety hazards.
- cc. The landfill operator shall provide, as part of its development permit application to IEPA, a demonstration (water balance) that the watershed north of 7500 S Road will not be negatively impacted by the facility. A copy of this demonstration shall be submitted to the County Planning Director.
- dd. The County Planning Director shall be notified at least fourteen days in advance of construction of the stormwater control planned for each phase of landfill development. The operator shall provide the County Planning Director with a copy of all correspondence to or from IEPA related to stormwater detention and runoff control operations.
- ee. The landfill operator shall implement the complaint procedure outlined in the application, including a hot line phone number, to address complaints.
- ff. The landfill operator shall locate any farm drainage tiles on the property, and cooperate and coordinate with the County and appropriate drainage districts concerning possible and/or necessary removal or relocation of those tiles. Any removed tiles shall be sealed from any potential migration from the landfill. Only fine-grained material shall be used as backfill in the trench. The construction shall be certified by an independent professional engineer, such engineer approved by the County Planning Director.
- gg. A textured geomembrane shall be used when constructing the interior sideslope drainage layer, unless otherwise permitted by IEPA.
- hh. A textured geomembrane shall be used on the final cover layer, unless otherwise permitted by IEPA.
- ii. Final cover over a filled area is to be placed not later than 60 days after placement of the final lift of solid waste, unless otherwise permitted by IEPA. At no time shall the area exceed 10 acres, unless otherwise permitted by IEPA.
- jj. Leachate storage tanks shall be coated with a corrosive-resistant material prior to use, unless otherwise permitted by IEPA.

The leachate containment area is to be inspected for leaks or spills on a daily basis with all results recorded in a log. The log shall be made

available to the County for review. Any stormwater suspected of being contaminated in the leachate containment area shall be handled as leachate, unless a sample is collected and tested for the annual leachate parameter list, and it is demonstrated that all organic compounds are below detection limits, and all inorganic compounds are detected at concentrations below NPDES discharge limits.

- ll. All stormwater detention basins and stormwater drainage ways/ditches shall be inspected weekly during the operating life of the facility. A written log shall be kept of the inspections and made available to the County for review. The inspections shall be conducted on a quarterly basis for five years after certified closure of the facility. After five years of closure, the frequency of these inspections may be decreased to annually with IEPA approval. At the time of inspection, all debris shall be removed from the inlet/outlet structures. If the sediment buildup in a basin or ditch is within six inches below the invert of the outlet structure, the basin shall be dredged and all sediments removed. All stormwater drainage ways/ditches on property adjacent to the facility shall be inspected on the same schedule (weekly during the operating life, quarterly during the first five years of certified closure, then as approved by IEPA), if located on publicly-owned land. If located on privately owned land, the same inspections shall be performed if allowed by the property owner.
- mm. An independent professional engineer (approved by the County Planning Director) must re-certify any final cover disturbed as a result of installation of the gas management system, unless otherwise permitted by IEPA.
- nn. Due to the number of adjacent private potable water wells and the unknown impact of the landfill on groundwater flow within the bedrock aquifer, the maximum spacing between bedrock monitoring wells around the entire landfill footprint shall be 250 feet, unless otherwise approved by IEPA. No later than five years after the start of landfill operation at the expansion, the operator shall install two additional deep dolomite aquifer monitoring wells at locations and depths specified by the County, unless otherwise permitted by IEPA.
- oo. Leachate generation data will be recorded weekly per phase. The volume of leachate pumped/shipped per week shall be recorded in a written log for each phase of the landfill. A monthly written summary comparing the actual leachate generation data to the theoretical volume expected must be submitted to the County Planning Director.
- pp. To provide additional hydrogeologic data on the southwest side of the facility, two additional piezometers must be installed. The first piezometer shall be installed midway between G119A and G137A. The second piezometer shall be installed midway between G137A and G140A. The

two new piezometers shall be developed, then single well aquifer tested. A minimum of one round of static water levels shall be collected from all the bedrock monitoring wells and piezometers, and the potentiometric surface contour map of the bedrock aquifer shall be updated. The boring logs, as-built diagrams, single well aquifer test data, and test reduction for the two additional piezometers shall be included in the development permit application to IEPA. The two additional piezometers shall be proposed by the operator for the groundwater monitoring network in the development permit application to IEPA.

- qq. Burning of any type (including vegetative prescribed burning) is prohibited at the facility, unless expressly approved by the County Board.
- rr. When collecting groundwater samples, a well must be purged a minimum of 3 well volumes, and two consecutive field measurements with a  $\pm 0.3$  S.U. for pH and within 5% for specific conductivity must be conducted, unless otherwise permitted by IEPA. All field measurements must be performed in the field at the time of sampling, and not at the laboratory, unless otherwise permitted by IEPA.
- ss. The temperature of the constructed soil liner that has not yet been covered by waste shall be monitored continuously and documented in sub-freezing temperatures. Liner soils exposed to freezing temperatures must be retested for permeability by lab (tube) or in-situ testing. Any soil not meeting the  $1 \times 10^{-7}$  cm/sec requirements shall be reconstructed/recompacted and then retested by permitted methods.
- tt. Citizen refuse boxes shall be emptied daily if refuse is deposited in them.
- uu. Results of any initial test performed to determine the level of noise from the gas flare or generator systems shall be submitted to the County Planning Director. If the gas flare or generator systems are materially changed after initial noise level testing, those systems shall be promptly retested.
- vv. The citizen-use recycling opportunities at the facility shall include, at a minimum, mixed paper, glass (green, brown, and clear), at least two plastic types (numbers 1 and 2 plastics), ferrous metals, aluminum, and cardboard. The operator shall submit, to the County Planning Director, quarterly reports on the tonnage/weight of all material received.
- ww. The hours of operation at the facility are limited to one-half hour before and two hours after waste acceptance hours. Thus, operations are limited to 5:30 a.m. to 8:00 p.m., Monday through Saturday.
- xx. An operable valve shall be installed and continually maintained at each

sedimentation outlet basin. Proper operation of any and all such valves shall be verified by no less than quarterly inspection, with the results of all inspections documented and provided to the County upon request.

- yy. Because the model indicates the thickness of in-situ clay is critical for the diffusion of contaminants, the operator shall verify that clay soil with at least three feet of continuous thickness is located between the bottom of the constructed clay liner and the top of the uppermost aquifer (dolomite bedrock and basal sand unit). If the clay soil is found not to be three feet thick, the underlying three feet of material shall be over-excavated and recompacted so that a minimum of six feet of low permeability material is in place immediately below the HDPE liner, and that this material has a maximum hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec.
  - zz. All conditions must be stated in the development permit application submitted to IEPA. The operator shall provide specific notation to the County Planning Director, with the location of each condition in the development permit application by section, page, and condition numbers.
  - aaa. The operator shall reimburse the County for reasonable expenses for services of professionals reviewing and analyzing the groundwater corrective action and assessment monitoring activities.
  - bbb. The operator shall install and maintain a double composite liner.
3. Whether 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 KCRPC recommended that criterion three be found to be satisfied, subject to special conditions. A motion that the Board adopt the KCRPC's recommendation failed on a vote of 10 in favor and 18 opposed. Having no additional motions, the Board finds that criterion three is not satisfied.
4. Whether the facility is located outside the boundary of the 100 year floodplain, or the site is floodproofed. The KCRPC recommended that criterion four be found to be satisfied. A motion that the Board adopt the KCRPC's recommendation passed on a voice vote. The Board finds that the proposed facility is located outside the boundary of the 100 year floodplain.
5. Whether the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. The KCRPC recommended that criterion five be found to be satisfied. A motion that the Board adopt the KCRPC's recommendation passed on a vote of 20 in favor and 6 opposed, with 2 absent. The Board finds that the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. However, that finding is based upon the

imposition of the following special conditions:

- a. The landfill operator shall install a radiation detector at the scale house. The landfill operator shall record any alarm, and notify the County of each occurrence, the level of radiation detected, and the manner of response.
  - b. The facility's Emergency Action Plan (EAP) shall include contingencies for management of incidental hazardous (including radioactive) waste inadvertently received at the facility. The EAP shall specify, at a minimum, qualified contractor criteria, overpacking, and immediate off-site removal of the incidental hazardous waste.
6. Whether the traffic patterns to or from the facility are designed to minimize the impact on existing traffic flows. The KCRPC recommended that criterion six be found to be satisfied. A motion that the Board adopt the KCRPC's recommendation failed on a vote of 12 in favor and 16 opposed. Having no additional motions, the Board finds that criterion six is not satisfied.
7. If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release. The KCRPC recommended that criterion seven be found inapplicable. A motion that the Board adopt the KCRPC recommendation passed on a voice vote. The Board finds that the facility will not be treating, storing, or disposing of hazardous waste. Therefore, the Board finds that this criterion is not applicable.
8. If the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan. The KCRPC recommended that criterion eight be found to be satisfied. A motion that the Board adopt the KCRPC recommendation passed on a vote of 25 in favor and 3 opposed. The Board finds that the facility is consistent with the Kankakee County Solid Waste Management Plan. However, that finding is based upon the imposition of the following special conditions:
- a. The landfill operator must comply with all obligations and responsibilities of the Host Agreement between the County and Waste Management of Illinois, Inc.
  - b. The landfill operator must employ independent appraisers acceptable to the County as part of the Property Value Guarantee Program.
  - c. The Property Value Guarantee Program must be amended to provide that the Program continues for thirty years after the included Property Owners

are notified that waste is no longer being disposed of at the facility.

9. If the facility will be located in a regulated recharge area, any applicable requirements specified by the [Illinois Pollution Control] Board for such areas have been met. The KCRPC recommended that criterion nine be found inapplicable. A motion that the Board adopt the KCRPC recommendation passed on a vote of 27 in favor and 1 opposed. The Board finds that the facility will not be located in a regulated recharge area. Therefore, the Board finds that this criterion is not applicable.

### Conclusion

The Board finds that all conditions recommended in this resolution are reasonable and necessary to accomplish the purposes of Section 39.2 of the Environmental Protection Act. (415 ILCS 5/39.2.)

Because the Board has found that criteria one, three, and six are not satisfied, local siting approval for the proposed expansion is denied.

This Decision made and entered on March 17, 2004.

  
KARL A. KRUSE, CHAIRMAN

ATTEST:

  
BRUCE CLARK, COUNTY CLERK