

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**JUL 15 2004**

**STATE OF ILLINOIS**  
**Pollution Control Board**

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

No. PCB 04-186  
(Pollution Control Facility  
Siting Appeal)

**NOTICE OF FILING**

TO: All Attorneys of Record

PLEASE TAKE NOTICE THAT on July 14, 2004, I mailed for filing with the Illinois Pollution Control Board, Chicago, Illinois, the attached **Respondent's Objection to Merlin Karlock's Petition to Intervene or, Alternatively, for Leave to File an Amicus Curiae Brief**, a copy of which is herewith served upon you.

DATED: 7/14/04

COUNTY BOARD OF KANKAKEE COUNTY,  
ILLINOIS,

BY: HINSHAW & CULBERTSON

Charles F. Helsten  
Charles F. Helsten

HINSHAW & CULBERTSON  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 15 2004

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Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC., )  
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COUNTY BOARD OF KANKAKEE COUNTY, )  
ILLINOIS, )  
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No. PCB 04-186  
(Pollution Control Facility  
Siting Appeal)

**RESPONDENT'S OBJECTION TO MERLIN KARLOCK'S PETITION TO  
INTERVENE OR, ALTERNATIVELY, FOR LEAVE TO FILE AN  
AMICUS CURIAE BRIEF**

NOW COMES Respondent, COUNTY BOARD OF KANKAKEE COUNTY, ILLINOIS, by and through its Attorneys, HINSHAW & CULBERTSON LLP, and as and for its Objection to Merlin Karlock's Petition to Intervene or, Alternatively, for Leave to File an *Amicus Curiae* Brief, states as follows:

**I. BACKGROUND**

1. On September 26, 2003, Waste Management of Illinois, Inc. ("WMII") filed a site location application with the County Board of Kankakee, Illinois ("County Board") for expansion of an existing landfill located in the County of Kankakee, Illinois.
2. On March 17, 2004, the County Board denied WMII's application.
3. WMII has sought review of the County Board's decision pursuant to Section 40.1(a) of the Illinois Environmental Protection Act ("Act"), and Merlin Karlock, an objector in the local siting hearing, seeks to intervene in these proceedings.
4. Mr. Karlock asserts that he should be allowed to intervene in this proceeding because: 1) as an owner of property adjacent to the WMII property, "his property rights will be

immediately and directly affected by the outcome of this case"; 2) he "successfully participated" in the local siting hearing and the prior case in which WMII sought expansion; and 3) he "fears that neither the County, nor its attorneys, will advocate as zealously or thoroughly as possible in defending the Kankakee County Board's denial of siting approval." Merlin Karlock's Petition for Leave to Intervene ("Petition"), paras. 2-3, 7.

5. In the alternative, Mr. Karlock seeks leave to file an *amicus curiae* brief with this Board.

6. Mr. Karlock's attorney, George Mueller, does not cite to any legal authority in support of the Petition, but, rather, adopts and incorporates by reference the legal arguments made by another objector, Michael Watson, in his Motion to Intervene and Motion for Leave to File an *Amicus Curiae* Brief previously filed with this Board. Petition, para. 4.

7. Respondent, County Board of Kankakee County, Illinois (County), objected to Michael Watson's Motion to Intervene and for Leave to File an *Amicus Curiae* brief and, likewise, objects to Mr. Karlock's Petition for Leave to Intervene or, Alternatively, for Leave to File an *Amicus Curiae* Brief. As noted above, since Karlock's Motion essentially mimics Watson's Motion, in addition to the argument set forth below, the County also adopts its Objection to Michael Watson's Motion to Intervene as part of its response to Merlin Karlock's objection as if fully set forth herein verbatim.

## II. ARGUMENT

### A. MR. KARLOCK'S PETITION TO INTERVENE SHOULD BE DENIED AS IT CONTAINS NUMEROUS MISSTATEMENTS OF FACT AND IS BASED ON THE ERRONEOUS ASSUMPTION THAT THE COUNTY BOARD WILL NOT ADEQUATELY DEFEND ITS DECISION.

8. Mr. George Mueller, Attorney for Merlin Karlock, clearly misrepresents many facts in his Petition in an improper attempt to portray the attorneys for the County Board of

Kankakee County as biased and unwilling to "advocate as zealously or thoroughly as possible in defending the Kankakee County Board's denial of siting approval." Petition, para. 7.

9. Such accusations are simply not based in fact, but are merely part of Mr. Mueller's standard mantra that he tailors to retrofit all of the cases in which he seeks to intervene.

10. In *Rochelle Waste Disposal, L.L.C. v. City Council of Rochelle*, PCB 03-218, Mr. Mueller also alleged that the City Council of Rochelle, represented by Hinshaw & Culbertson LLP, might not be willing to vigorously defend its decision to deny siting approval and, therefore, argued that the citizens group he was representing should be allowed to intervene "to participate in vigorously, and without reservation, defending the correctness of the City Council's decision to deny siting approval." PCB 03-218 (June 19, 2003).

11. This Board properly rejected Mr. Mueller's arguments and denied intervention, finding that "third-party objectors are precluded from intervention in an appeal from a denial of siting approval." PCB 03-218 (July 10, 2003).

12. In *Rochelle*, the City Council, through its attorneys, Hinshaw & Culbertson LLP, did, in fact, vigorously defend its decision to deny the site location application, and this Board upheld that decision. PCB 03-218 (Apr. 15, 2004).

13. In fact, Hinshaw & Culbertson's defense was so vigorous that the applicant chose not to appeal this Board's affirmance of the City Council's denial of the application, further confirming the wisdom of this Board's Order of July 10, 2003 in that matter.

14. Just as Mr. Mueller had no support for his assertion and insinuation in *Rochelle* that intervention was necessary to vigorously defend the City Council's decision, likewise, in this case, Mr. Mueller has no factual support for his accusation that the County Board will not

vigorously defend its denial of siting approval, and his Motion is based only upon tenuous innuendo and unfounded sensationalism.

15. Because Mr. Mueller has no factual support for this tired argument that he carts around with him and molds to try to fit the circumstances of each case where he represents objectors, Mr. Mueller instead relies on improper insinuations that Hinshaw & Culbertson LLP is conflicted because of some alleged "relationship" that exists with WMII based on some invoices that were mistakenly addressed to "Kankakee County Landfill" instead of "Kankakee County."

16. This issue was thoroughly addressed and reconciled in PCB 03-125, 133, 134, 135 (cons.) after Hinshaw & Culbertson LLP clearly established that it has always represented and been paid by the County of Kankakee, and, in fact, as is evidenced in Karlock's own Brief, all of the invoices were mailed and sent directly to the State's Attorney of Kankakee County to be paid by the County. *See* Exhibit A to Karlock's Petition, p. 15. Those invoices were captioned "Kankakee County Landfill" through a mere clerical error and nothing more. *See* Affidavit of Joan Lane submitted as public comment in PCB 03-125, 133, 134 and 135 (cons.), and attached hereto as Exhibit A.

17. Furthermore, as set forth in an affidavit drafted by the Kankakee County Planning Director, and submitted as public comment in PCB 03-125, 133, 134 and 135 (cons.), the law firm of Hinshaw & Culbertson LLP never represented WMII in connection with the Kankakee County Landfill. *See* Affidavit of Mike Van Mill, attached hereto as Exhibit B.

18. Mr. Mueller's assertions that Hinshaw & Culbertson LLP is somehow improperly influencing or not adequately representing the County Board because of its "relationship" with WMII is simply nonsense and mean-spirited sensationalism, as evidenced by the very fact that the Kankakee County Board denied siting approval of WMII's most recent siting application; that

fact clearly establishing that Hinshaw & Culbertson LLP is not improperly influencing or inadequately defending the County Board.

19. To the contrary, the evidence presented by Mr. Mueller himself clearly establishes that Hinshaw & Culbertson LLP is vigorously defending the County of Kankakee and Kankakee County Board, not only in this action but in other actions. Petition, para. 9. The fact that Hinshaw & Culbertson LLP is defending the County Board's decision to grant site location approval of WMII's previous application does not prove any conflict, but actually establishes Hinshaw & Culbertson LLP's loyalty and commitment to vigorously defend its clients in all cases on the separate merits of each case.

20. As is made clear in the Petition, Mr. Mueller has not and cannot allege any real facts to support his "fears" that the County and its attorneys will not advocate zealously, so, instead, he rolls out his time-worn, hide bound, generic attack on Hinshaw & Culbertson LLP. As such, Mr. Mueller's Petition should be wholly disregarded.

21. It is well settled that "when a governmental entity is involved, 'interested parties legitimately may assume that their elected officials will adequately represent their interest as members of the general public.'" *People ex rel. Birkett v. City of Chicago*, 329 Ill.App.3d 477, 490, 769 N.E.2d 84, 96 (2d Dist. 2002), *rev'd in part on other grounds*, 202 Ill.2d 36, 779 N.E.2d 875 (2002). Furthermore, the "[a]dequacy [of representation] can be presumed when the party on whose behalf the applicant seeks intervention is a governmental body or officer charged by law with representing the interests of the proposed intervenor." *American Nat'l Bank and Trust Co. of Chicago v. City of Chicago*, 865 F.2d 144, 148 (7th Cir. 1989).

22. Because Mr. Mueller has failed to present a single piece of evidence to support his "fear" that the County Board of Kankakee County and its attorneys will not zealously defend the County Board's decision, intervention is neither necessary nor appropriate.

**B. MR. KARLOCK'S PETITION SHOULD BE DENIED BECAUSE THE UNANIMOUS LEGAL AUTHORITY PROHIBITS INTERVENTION.**

23. Mr. Karlock's Petition for Leave to Intervene should be denied because intervention is clearly prohibited by the PCB Procedural Rules, the Illinois Environmental Protection Act and PCB precedent.

24. Rule 107.200 of the PCB Procedural Rules sets forth who may file a petition for review concerning siting of a new pollution control facility, and allows only two types of people to do so: 1) siting applicants when there has been a "decision to deny siting" or to "appeal conditions imposed in a decision granting siting approval"; and 2) a person who participated in the local siting hearing who is adversely affected by a unit of local government's "decision to grant siting." 35 Ill. Adm. Code 107.200 (emphasis added).

25. As set forth above, only the applicant may be a petitioner when a siting application is denied by a local governing unit. *See* 35 Ill. Adm. Code 107.200.

26. Furthermore, Rule 107.202 specifically sets forth who may be parties to a review of a local government's decisions concerning a new pollution control facility. Rule 107.202 provides:

a) In a petition to review a local government's decision concerning a new pollution control facility, the following are parties to the proceeding:

1) The petitioner or petitioners are the persons described in Section 107.200 of this Part. If there is more than one petitioner, they must be referred to as co-petitioners; and

2) The unit(s) of local government whose decision is being reviewed must be named the respondent(s). In an appeal pursuant to Section 107.200(b), the siting applicant must also be named as respondent.

- b) Where the interests of the public would be served, the Board or hearing officer may allow intervention by the Attorney General or the State's Attorney of the county in which the facility will be located.

35 Ill. Adm. Code 107.202.

27. Rule 107.202 then clearly does not allow for an adjacent landowner, such as Mr. Karlock, to be a party to this proceedings, as Rule 107.202 clearly limits the parties to the petitioner(s), the unit(s) of local government, and the Attorney General or State's Attorney (if they seek intervention).

28. Therefore, PCB Rules 107.200 and 107.202 clearly do not allow intervention

29. Mr. Karlock's Petition to Intervene must also be denied pursuant to the plain language of Section 40.1 of the Illinois Environmental Protection Act, which provides:

(a) If the county board \* \* \* refuses to grant approval \* \* \* the applicant may \* \* \* petition for a hearing before the [IPCB] to contest the decision \* \* \*.

(b) If the county board \* \* \* grants approval \* \* \* a third party other than the applicant \* \* \* may petition the [IPCB] \* \* \* for a hearing to contest the approval \* \* \*

415 ILCS 5/40.1(a).

30. While the Act allows for intervention by third parties when an application is approved, "[t]he Act thus does not provide for a third-party appeal where the PCB has refused to grant site approval." *McHenry County Landfill, Inc. v. Illinois Environmental Protection Agency*, 154 Ill.App.3d 89, 95, 506 N.E.2d 372, 376 (2d Dist. 1987); *see also Waste Management of Illinois, Inc. v. Illinois Pollution Control Board*, 160 Ill.App.3d 434, 444, 513 N.E.2d 592, 598 (2d Dist. 1987) ("following a county board denial of a site approval request, section 40.1 of the Act precludes objectors from becoming parties to a PCB review hearing").

31. Based on the explicit language contained in Section 40.1 of the Act, this Board must deny Mr. Karlock's petition to intervene because "[t]he PCB is powerless to expand its

authority beyond that which the legislature has expressly granted to it." *McHenry County*, 154 Ill.App.3d at 95, 506 N.E.2d at 376. As such, it would be improper and unlawful for this Board to allow Mr. Karlock to intervene as a party in this proceeding. *See id.* (holding that "the PCB improperly permitted the objectors to become parties to the proceeding before it" and therefore finding that the objectors had no standing to appeal under section 41 of the Act).

32. It is clear that Mr. Karlock's Petition to Intervene should be denied, as this Board has universally held that third-party objectors, like Mr. Karlock, are not entitled to intervention when the local unit of government denies an applicant's request for site location approval. *See Rochelle Waste Disposal, L.L.C. v. City Council of Rochelle*, PCB 03-218 (July 10, 2003) (explaining that a third-party objector did not have special intervention rights, and therefore could not intervene); *Waste Management of Illinois, Inc. v. County Board of Kane County*, PCB 03-104 (Feb. 20 (2003) (same); *Land and Lakes Co. v. Randolph County Board of Commissioners*, PCB 99-69 (March 18, 1999) (finding that "allowing a third-party to intervene would be granting party status to someone who does not have party status under Section 40.1 of the Act"); *Lowe Transfer, Inc. v. County Board of McHenry County*, PCB 03-221 (July 10, 2003) ("It is well established that third-party objectors are precluded from intervention in an appeal from a denial of siting approval."); *Riverdale Recycling, Inc. v. IEPA*, PCB 00-228 (same); *Land and Lakes Co. v. Village of Romeoville*, PCB 94-195 (Sept. 1, 1994) (same)

33. Mr. Karlock, as an owner of property contiguous to the proposed landfill expansion, is not unique, as many of the interveners in the cases cited above were owners of property adjacent to the proposed landfills, and claimed that they should be allowed to intervene based on that fact, but the PCB disagreed. *See Land and Lakes Co. v. Village of Romeoville*, 91-7 (Feb. 7, 1991) (finding that a forest preserve had no right to intervene because its interest was

as an adjacent landowner); *Land and Lakes v. Romeoville*, PCB 94-195 (finding that a forest preserve district that was an "adjacent landowner" had no right to intervene); *Lowe Transfer, Inc.* PCB 03-221 (denying intervention to a village located directly adjacent to a proposed landfill despite contentions that the landfill would have a "significant impact" on the village).

34. Furthermore, Mr. Karlock has no right as an individual property owner to assert a private interest in a landfill siting review. In fact, as set forth above, the PCB rules clearly establish that it is only appropriate for an individual representing the public interest to intervene, which is why the PCB Rules specifically allow only the State's Attorney or Attorney General to intervene in an action such as this. See *Land and Lakes v. Romeoville*, PCB 91-7 (explaining that the State's interest in intervention is "to protect the public welfare"); *Land and Lakes v. Romeoville*, PCB 94-195 (explaining that "a state's attorney may intervene to represent the public interest"); *Land and Lakes v. Randolph County*, PCB 99-69 (same); *Lowe Transfer, Inc.*, PCB 03-221 (same); *Rochelle*, PCB 03-218 (same); *Waste Management*, PCB 03-104 (same).

35. In fact, it is appropriate for only the State's Attorney or Attorney General to intervene in the review of the denial of a site location application because "the Attorney General, 'as chief legal officer of this State, \* \* \* has the duty and authority to represent the interests of the People of the State to insure a healthful environment'", and the "State's Attorney's 'rights and duties are analogous to those of the Attorney General.'" *Saline County Landfill, Inc. v. IEPA*, PCB 02-108 (April 18, 2002), citing *Pioneer Processing, Inc. v. IEPA*, 102 Ill.2d 119, 464 N.E.2d 238 (1984) and *Land and Lakes Co. v. PCB*, 245 Ill.App.3d 631, 616 N.E.2d 349 (3d Dist. 1993); see also *Land and Lakes Co v. Romeoville*, PCB 91-7 (Feb. 7, 1991) (explaining that the State's Attorney and Attorney General represent "a legitimate public interest").

36. Clearly, the PCB has determined that only an individual protecting the public interest is allowed to intervene when the PCB is reviewing a local government's decision to deny site location approval. Therefore, Mr. Karlock, who is attempting to protect only his private interests, should not be allowed to intervene.

37. Moreover, Mr. Karlock's private right as a property owner would not be affected by reversal of the County Board's denial because WMII submitted with its application a Property Value Protection Plan to protect the property value of Mr. Karlock's land, as well as other property surrounding the landfill. If WMII somehow violates that Plan, Mr. Karlock then will have a private right of action against the WMII. Clearly, such an interest is not relevant to a landfill siting appeal, such as this, but is more appropriately raised in a court of law if, in fact, Mr. Karlock's property is actually harmed by the landfill expansion.

38. Because it is well-settled that a third-party objector, like Mr. Karlock, has no right to intervene in a case involving landfill siting approval where approval is denied by the local governing body, Mr. Karlock's Petition to Intervene should be denied.

**C. MR. KARLOCK'S PETITION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF SHOULD BE DENIED.**

39. Mr. Karlock argues that he should be granted leave to file an *amicus curiae* brief if he is not allowed to intervene as a party in these proceedings; however, this Board should deny Karlock's request to file an *amicus curiae* brief because, through his brief, Mr. Karlock will be attempting to present wholly new arguments to this Board that have not been previously raised by the parties in the underlying action.

40. As an *amicus*, Mr. Karlock is specifically precluded from presenting new arguments. As explained by the Illinois Supreme Court, an *amicus curiae* is not a party to the action but is, instead a "friend" of the court, and, as such, the sole function of an *amicus* is to

advise or make suggestions to the court. *People v. P.H.*, 145 Ill.2d 209, 234, 582 N.E.2d 700, 711 (1991). An *amicus* takes the case as he finds it, with the issues framed by the parties. *Id.*

41. Therefore, an *amicus curiae* has no right to present issues that are not raised by the parties to the proceeding.

42. In fact, issues addressed and arguments made only by an *amicus curiae*, and not by the parties, need not be considered. See *Archer Daniels Midland Co. v. Industrial Commission*, 138 Ill.2d 107, 117, 561 N.E.2d 623, 627 (1990); *P.H.*, 145 Ill.2d at 234, 582 N.E.2d at 711-12; *In re J.W.*, 204 Ill.2d 50, 73, 787 N.E.2d 747, 761 (2003).

43. Moreover, Mr. Karlock should also be denied the right to become an *amicus curiae* because he is not a "friend" of the Board as is made clear through Mr. Karlock's Petition, which presents untruths to this Board in a hostile and unprofessional manner. The County respectfully submits that Mr. Karlock's Petition is only a small harbinger of the biased, intemperate rhetoric that would follow if he and his attorney were allowed to proceed.

44. As such, Mr. Karlock does not fit in any manner, shape or form within the definition of an *amicus curiae*, and he should, therefore, be denied the right to file an *amicus curiae* brief. See *Mines v. Olin Corp.*, 171 Ill.App.3d 246, 248, 524 N.E.2d 1203, 1205 (1st Dist. 1988) (explaining that "an *amicus curiae* is an impartial individual who suggests the interpretation and status of the law, gives information concerning it, and whose function is to advise in order that justice maybe done") (emphasis added).

45. Additionally, Mr. Karlock's Petition for Leave to File an *Amicus Curiae* brief should be denied because, through his brief, Mr. Karlock will not simply be advising this Board regarding the law, but he will be advocating a self-interested, bias, and highly subjective point of

view. Such is not the role of an *amicus curiae*. See *Mines*, 171 Ill.App.3d at 248-49, 524 N.E.2d at 1205. Therefore, Mr. Karlock's Petition should be denied. See *id.*

46. For the reasons set forth above, Mr. Karlock's Petition for Leave to File an *Amicus Curiae* Brief should be denied.

### III. CONCLUSION

WHEREFORE, Respondent, COUNTY BOARD OF KANKAKEE, ILLINOIS, respectfully requests that this Board deny Mr. Karlock's Petition for Leave to Intervene or, Alternatively, for Leave to File *Amicus Curiae* Brief.

DATED: \_\_\_\_\_

7/14/04

COUNTY BOARD OF KANKAKEE COUNTY,  
ILLINOIS,

BY: HINSHAW & CULBERTSON LLP

Charles E. Helsten

Firm No. 695  
HINSHAW & CULBERTSON LLP  
100 Park Avenue  
P.O. Box 1389  
Rockford, IL 61105-1389  
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AFFIDAVIT

I, JOAN LANE, the undersigned being first duly sworn on oath depose and state as follows:

1. I am an employee of Hinshaw & Culbertson and the Administrative Assistant for Charles F. Helsten who is a Special Assistant State's Attorney for the County of Kankakee for environmental and solid waste matters.

2. Mr. Helsten and Hinshaw & Culbertson were hired by the State's Attorney for the County of Kankakee in late 2001.

3. At the time that Hinshaw & Culbertson and Mr. Helsten were hired by the Kankakee County State's Attorney, a file was opened, Matter Number 809319, at which time the matter was referred to as the "Kankakee County Landfill".

4. I was responsible for opening the file for Mr. Helsten, and at that time I inadvertently listed the Kankakee County Landfill as the both the "matter" and the "client".

5. The landfill itself was not the client.

6. Since the date that Hinshaw was first retained by the Kankakee County State's Attorney several other files have been opened for Hinshaw's representation of the State's Attorney, Kankakee County or Kankakee County staff, including Matter Numbers, 813053, 813333, and 815142.

7. I used the "file intake sheet" for Matter Number 809319 as a template for the file intake sheets for Matter Numbers 813053, 813333, 815142 and any other file opened on behalf of the Kankakee County State's Attorney, Kankakee County or Kankakee County staff.

8. Because I used the file intake sheet for 809139 as a template for the subsequent files, the same typographical error referencing that the client was "Kankakee County Landfill" was made in each of these subsequent files.

9. All of the bills concerning the application to expand the landfill operated by Waste Management in Kankakee County have been paid by Kankakee County.

10. The reference to "Kankakee County Landfill" as the client on the file intake sheet was merely an inadvertent typographical error.

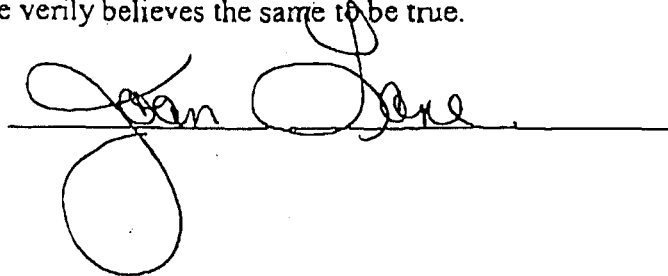
11. The result of the client being identified as Kankakee County Landfill on the file intake sheets was that the invoices sent to Kankakee County State's Attorney Edward Smith erroneously indicated "Represent: Kankakee County Landfill".

12. In January 2003, I had the error corrected on all of the files.

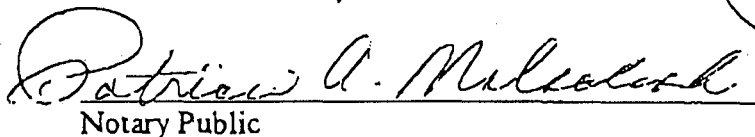
13. At no time has Hinshaw & Culbertson represented the Kankakee County landfill or its operator, Waste Management of Illinois, Inc., in regard to any siting application, host agreement negotiation, or otherwise, in Kankakee County.

**FURTHER AFFIANT SAYETH NOT.**

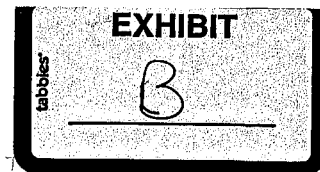
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



SUBSCRIBED and SWORN to  
before me this 21st day of May, 2003.

  
Notary Public





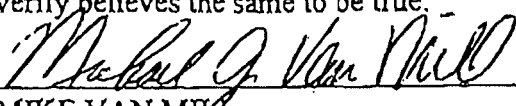
AFFIDAVIT

I, MIKE VAN MILL, the undersigned being first duly sworn on oath depose and state as follows:

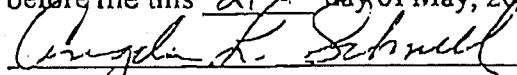
1. I am the Kankakee County Planning Director.
2. I am familiar with the attorneys that have been hired by the County of Kankakee to assist in the legal aspects of the County's environmental and solid waste management issues.
3. In 2001 Attorney Charles Helsten and the law firm of Hinshaw & Culbertson were hired by the State's Attorney for County of Kankakee.
4. At various times Hinshaw & Culbertson has represented the County of Kankakee, County staff, and/or the Kankakee County State's Attorney.
5. At no time did the State's Attorney, Kankakee County, or Kankakee County staff retain Hinshaw & Culbertson or Mr. Helsten to represent Waste Management of Illinois, the operator of the Kankakee County Landfill.
6. The County of Kankakee has paid all of Hinshaw & Culbertson's invoices which are in any way associated with the negotiation of a host agreement with Waste Management of Illinois.
7. The County of Kankakee has paid all of Hinshaw & Culbertson's invoices concerning the application of Waste Management of Illinois to site a landfill expansion in Kankakee County.

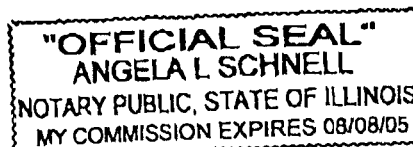
FURTHER AFFIANT SAYETH NOT.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
MIKE VAN MILL

SUBSCRIBED and SWORN to  
before me this 21 day of May, 2003.

  
Notary Public



**PROOF OF SERVICE**

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on July 14, 2004, a copy of the foregoing was served upon:

Dorothy M. Gunn, Clerk  
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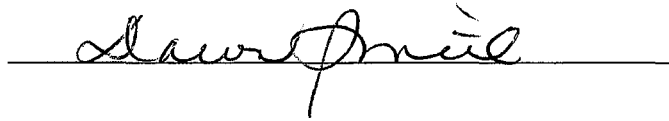
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Brad Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph, 11<sup>th</sup> Floor  
Chicago, IL 60601

By depositing a copy thereof, enclosed in an envelope in the United States Mail at Rockford,, Illinois, proper postage prepaid, before the hour of 5:00 P.M., addressed as above.

A handwritten signature in dark ink, appearing to read "David Flynn", is written over a horizontal line.

HINSHAW & CULBERTSON  
100 Park Avenue  
P.O. Box 1389  
Rockford, Illinois 61101-1389  
(815) 490-4900