BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORAINE, LLC,)
Petitioner) PCB 07-146) (Pollution Control Facility Siting
V.) Appeal))
UNITED CITY OF YORKVILLE, CITY	,
COUNCIL)

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE that the undersigned has, on this 25th day of July, 2007, caused to be filed with the Clerk of the Illinois Pollution Control Board, via electronic filing, the Motion to Intervene of Kendall County, Illinois, a copy of which is herewith served on you.

Jeep & Blazer, LLC

By:

Michael S. Blazer Special Counsel

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SERVICE LIST

FOX MORAINE, LLC V. UNITED CITY OF YORKVILLE PCB NO. 07-146

Hearing Officer: Bradley P. Halloran

Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the Motion to Intervene of Kendall County to be served, via facsimile transmission, upon all persons identified on the foregoing Service List on this 25th day of July, 2007.

Michael S. Blazer

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORAINE, LLC,)	
	Petitioner) PCB 07-146) (Pollution Control Facility Si	itina
V.) Appeal)	9
UNITED CITY OF COUNCIL	YORKVILLE, CITY))	

MOTION TO INTERVENE OF KENDALL COUNTY, ILLINOIS

Now comes Kendall County, Illinois (the "County" or "Kendall"), by and through its State's Attorney and Special Counsel, and for its Motion pursuant to Rule 101.402 of this Board's procedural rules, 35 IAC 101.402 and 107.202(b), to Intervene in this matter on behalf of the position being defended by Respondent, United City of Yorkville (the "City" or "Yorkville"), states:

- 1. This matter is a siting appeal, in which Petitioner Fox Moraine, LLC ("Fox Moraine") seeks review of Yorkville's May 24, 2007 denial of Fox Moraine's request for local siting approval for a municipal solid waste landfill. The subject landfill was proposed to be located in Yorkville, which in turn is located in the County.
- 2. The Kendall County State's Attorney is a Constitutional officer, and the County's chief legal officer, and as such possesses both the duty and authority to represent the interests of the County's residents. With particular reference to this proceeding, the State's Attorney represents the public interest of the County in ensuring compliance with the statutory provisions relating to pollution control facility siting.
- 3. The County was a Participant in the underlying siting proceeding, and as such opposed the subject siting application on the grounds that Fox Moraine failed to

satisfy criteria 6 and 8 in §39.2 of the Illinois Environmental Protection Act, 415 ILCS 5/39.2(a)(vi) and (viii). Yorkville's siting denial was based, in part, on Fox Moraine's failure to satisfy criteria 6 and 8.

- 4. This intervention is sought by the County, through its State's Attorney, because of their interest in protecting the environment of the County and the health of persons who live and work in the County. In addition, a significant portion of the area surrounding the proposed landfill is in an unincorporated area of the County, and thus subject to the County's police power jurisdiction. As such, the representation by Yorkville of the County's residents, and of the County itself, may be inadequate. The County's residents may be materially prejudiced absent the County's intervention in this matter. See 35 IAC 101.402(d)(2), 107.202(b).
- 5. Numerous Appellate and Board decisions confirm that intervention by the County in similar situations is both authorized and appropriate. See, *e.g.*, *Pioneer Processing*, *Inc. v. IEPA*, 102 III.2d 119 (1984); *Land & Lakes Co. v. Village of Romeoville*, 245 III.App.3d 631, 640 (3d Dist. 1993); *Saline County Landfill, Inc. v. IEPA*, PCB 04-117, Slip Op. Cite at 2 (February 19, 2004); *Land & Lakes Co. v. Village of Romeoville*, PCB No. 94-195, Slip Op. Cite at 1 (September 1, 1994).
- 6. The County, through its undersigned State's Attorney and Special Counsel (acting under the authority of the State's Attorney), therefore requests that this Board grant it leave to intervene in this matter as a party, and to participate fully in support of Yorkville's denial of siting approval for the subject landfill, which does not comply with the requirements of §39.2 of the Act.

Respectfully submitted, Kendall County, Illinois

Bv:

Michael S. Blazer Special Counsel

Eric C. Weis Kendall County State's Attorney Kendall County Courthouse 807 John Street Yorkville, IL 60560 (630) 553-4157

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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V.) Appeal))	
UNITED CITY OF YORKVILLE, CITY COUNCIL))	

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PLEASE TAKE NOTICE that the undersigned has, on this 25th day of July, 2007, caused to be filed with the Clerk of the Illinois Pollution Control Board, via electronic filing, the Appearance of Michael S. Blazer, Special Counsel on behalf of Kendall County, a copy of which is herewith served on you.

Jeep & Blazer, LLC

By:

Michael S. Blazer Special Counsel

Eric C. Weis Kendall County State's Attorney Kendall County Courthouse 807 John Street Yorkville, IL 60560 (630) 553-4157

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the Appearance of Michael S. Blazer to be served, via facsimile transmission, upon all persons identified on the foregoing Service List on this 25th day of July, 2007.

Michael S. Blazer

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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	Petitioner)	PCB 07-14 (Pollution	_	Facility	Sitina
V.)	Appeal)	00	· acimy	Cg
UNITED CITY OF COUNCIL	YORKVILLE, CITY))				

APPEARANCE

The undersigned hereby enters his Appearance in this matter on behalf of the Movant for Intervention, Kendall County, Illinois.

Kendall County, Illinois

By:

Michael S. Blazer Special Counsel

Michael S. Blazer Jeep & Blazer, LLC 24 N. Hillside Avenue Suite A Hillside, IL 60162 (708) 236-0830

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Jeep & Blazer, LLC

By:

Michael S. Blazer Special Counsel

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The undersigned hereby certifies that he caused a copy of the Appearance of Eric C. Weis to be served, via facsimile transmission, upon all persons identified on the foregoing Service List on this 25th day of July, 2007.

Michael S. Blazer

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APPEARANCE

The undersigned hereby enters his Appearance in this matter on behalf of the Movant for Intervention, Kendall County, Illinois.

Kendall County, Illinois

Eric C. Weis

State's Attorney

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