

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

FOX MORaine, L.L.C.,

Petitioner,

v.

UNITED CITY OF YORKVILLE  
CITY COUNCIL,

Respondent.

PCB 07-146

Pollution Control Facility Siting Appeal

NOTICE OF FILING

TO: See Attached Service List

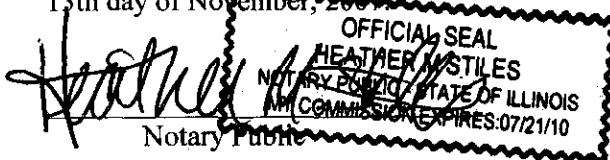
PLEASE TAKE NOTICE that on **November 13, 2007**, we filed before the Illinois Pollution Control Board, Kendall County, Illinois, the Friends of Greater Yorkville's Petition to Intervene, a copy of which is hereby served upon you.

James H. Knippen, II

PROOF OF SERVICE

I, the undersigned, on oath, state that I served a copy of this Notice of Filing, Proof of Service and the aforementioned pleading to the attorneys above-mentioned through the U.S. Postal Service on November 13, 2007.

Subscribed and Sworn to me this  
13th day of November, 2007.



Notary Public

Walsh, Knippen, Knight & Pollock, Chartered  
601 West Liberty Drive  
Wheaton, IL 60187  
630/462-1980

## Service List

Derke J. Price  
Ancel, Glink, Diamond, Bush & Krafthefer,  
140 South Dearborn Street, 6th Floor  
Chicago, Illinois 60603  
T: (312) 782-7606  
F: (312) 783-0943

Charles Helsten  
Hinshaw & Culbertson  
100 Park Avenue  
P.O. Box 1389  
Rockford, Illinois 61105-1389  
T: (815) 963-8488  
F: (815) 963-9989

Jeffrey D. Jeep, Esq.  
Jeep & Blazer, LLC.  
24 North Hillside Ave., Ste. A  
Hillside, IL 60162

United City of Yorkville  
Leo P. Dombrowski  
Anthony G. Hopp  
Thomas I. Matyas  
Wildman, Harrold, Allen & Dixon  
225 West Wacker Drive, Ste. 3000  
Chicago, Illinois 60606-1229  
T: (312) 201-2000  
F: (312) 201-2555

James Harvey  
Buck, Hutchison & Ruttle  
2455 Glenwood Avenue  
Joliet, Illinois 60435  
T: (815) 729-4800

Fox Moraine, LLC.  
George Mueller  
Mueller Anderson, P.C.  
609 Etna Road  
Ottawa, Illinois 61350  
T: (815) 431-1500  
F: (815) 431-1501

**Ms. Valerie Burd, Mayor  
Michael Roth, Interim City Attorney  
City of Yorkville  
800 Game Farm Road  
Yorkville, Illinois 60560**

**Eric Weis  
Kendall County State's Attorney  
Kendall County Courthouse  
807 John Street  
Yorkville, Illinois 60560  
T: (630) 553-4157  
F: (630) 553-4204**



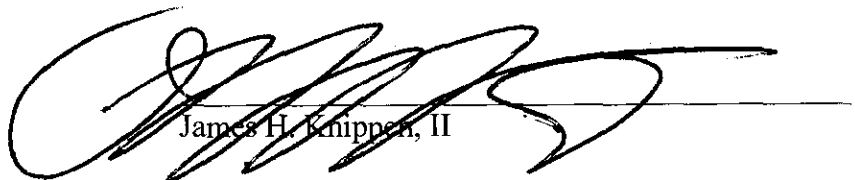
7. Because it is Friends of Greater Yorkville's petitioning of the Yorkville City Council that Fox Moraine is alleging as a basis for reversing the Yorkville City Council's decision on Fox Moraine's application for site location approval, Friends of Greater Yorkville will be materially prejudiced if it is not allowed to intervene to protect its own First Amendment right to petition. 35 Ill. Admin. Code § 101.402(d)(2). This material prejudice would arise because Fox Moraine would be allowed to put on evidence attacking the propriety of Friends of Greater Yorkville's petitioning activity, but Friends of Greater Yorkville would not be allowed to defend its own actions.

8. If Friends of Greater Yorkville is not allowed to intervene, it would have to rely on the arguments of the impartial government body that it petitioned. Friends of Greater Yorkville respectfully submits that it does not believe that it has the right to expect an impartial government body to "take sides" with it on the issue of its allegedly-*ex parte* petitioning activity. The Yorkville City Council has no responsibility to assert Friends of Greater Yorkville's First Amendment rights in this situation. If Friends of Greater Yorkville is not allowed to intervene, there is no party in this case that can adequately protect its First Amendment rights, and because of this it will be materially prejudiced.

WHEREFORE, Friends of Greater Yorkville, an Illinois not-for-profit corporation, respectfully requests that this Honorable Board grant Friends of Greater Yorkville leave to intervene in this cause of action, and that Walsh, Knippen, Knight & Pollock, Chartered, be granted leave to file an appearance on behalf of Friends of Greater Yorkville.

James H. Knippen, II  
WALSH, KNIPPEN, KNIGHT &  
POLLOCK, CHARTERED  
601 W. Liberty Dr.  
Wheaton, IL 60187-4940  
630-462-1980

Respectfully submitted,  
WALSH, KNIPPEN, KNIGHT & POLLOCK, CHARTERED



James H. Knippen, II

**Proof of Service**

I, the undersigned, on oath, state that I have served on the date of November 13, 2007, the attached "**Friends of Greater Yorkville's Petition to Intervene**", by U.S. Mail, upon the following persons:

**Derke J. Price**

**Ancel, Glink, Diamond, Bush & Krafthefer,**  
140 South Dearborn Street, 6th Floor  
Chicago, Illinois 60603  
T: (312) 782-7606  
F: (312) 783-0943

**James Harvey**  
**Buck, Hutchison & Ruttle**  
2455 Glenwood Avenue  
Joliet, Illinois 60435  
T: (815) 729-4800

**Charles Helsten**

**Hinshaw & Culbertson**  
100 Park Avenue  
P.O. Box 1389  
Rockford, Illinois 61105-1389  
T: (815) 963-8488  
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**Mueller Anderson, P.C.**  
609 Etna Road  
Ottawa, Illinois 61350  
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F: (815) 431-1501

**Jeffrey D. Jeep, Esq.**

**Jeep & Blazer, LLC.**  
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Hillside, IL 60162

**Ms. Valerie Burd, Mayor**  
**Michael Roth, Interim City Attorney**  
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**Thomas I. Matyas**  
**Wildman, Harrold, Allen & Dixon**  
225 West Wacker Drive, Ste. 3000  
Chicago, Illinois 60606-1229  
T: (312) 201-2000  
F: (312) 201-2555

**Eric Weis**  
**Kendall County State's Attorney**  
**Kendall County Courthouse**  
807 John Street  
Yorkville, Illinois 60560  
T: (630) 553-4157  
F: (630) 553-4204

*Heather M. Stiles*

Subscribed and sworn to before me this  
13th day of November 2007,

*Heather M. Stiles*  
Notary Public

