

Electronic Filing - Received, Clerk's Office, May 23, 2008

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

FOX MORaine, LLC)
)
 Petitioner,)
)
 v.) PCB 07- 146
)
 UNITED CITY OF YORKVILLE,)
 CITY COUNCIL)
)
 Respondent.)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 23rd day of May, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **RESPONSE TO MOTION TO COMPEL** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

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*Fox Moraine, LLC v. United City of Yorkville
PCB No. 2007-146*

SERVICE LIST

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CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing** and **RESPONSE TO MOTION TO COMPEL** to the Hearing Officer and all Counsel of Record listed on the attached Service list, be sending it via Electronic Mail on May 23, 2008, before 5:00 p.m.

/s/ Sharon Twardowski

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

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CITY COUNCIL)	
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Respondent.)	

RESPONSE TO MOTION TO COMPEL

NOW COMES Fox Moraine, LLC by and through one of its attorneys, George Mueller, and for its response to the motion to compel filed herein by the Friends of Greater Yorkville, a non-party, states as follows:

1. The Petition to Intervene, previously filed herein by Friends of Greater Yorkville, has been denied by the Board. Accordingly, Friends of Greater Yorkville are not a party in this case.

2. Since Friends of Greater Yorkville are not a party in this case, they have no standing to file motions and their motion to compel should be denied as lacking standing.

3. There is no rule which requires a non-party to be placed on a service list simply because they have been granted leave to file an Amicus Brief, nor is there authority for such proposition.

4. The Board promptly posts filings on its website herein. Accordingly, Friends of Greater Yorkville, like any non-party, has access to information regarding this

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cause, including filing by virtue of the Board's website, which is available to the general public.

WHEREFORE, Fox Moraine, LLC, prays that the Motion to Compel Case Participants to add Friends of Greater Yorkville to Service Lists be denied

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
 One of its attorneys

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