

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORAINNE, LLC)	
)	
Petitioner,)	
)	
v.)	PCB No. 07-146
)	(Pollution Control Facility Siting
)	Appeal)
UNITED CITY OF YORKVILLE, CITY)	
COUNCIL)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on April 6, 2009, Leo P. Dombrowski, one of the attorneys for Respondent, United City of Yorkville, filed via electronic filing the attached **United City of Yorkville's Motion in Limine #7**, with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

UNITED CITY OF YORKVILLE

By: /s/ Leo P. Dombrowski
One of their Attorneys

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FOX MORAINE, LLC)	
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Petitioner,)	
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YORKVILLE'S MOTION IN LIMINE # 7

Pursuant to the Hearing Officer's Order of March 23, 2009 and 35 Ill. Admin. Code § 101.610, Respondent, the United City of Yorkville, City Council ("Yorkville"), by and through its attorneys, moves the Hearing Officer in limine to exclude from the hearing on this matter any use of the pleadings Fox Moraine has identified in its Exhibit List Nos. 15-19. In support of its motion, Yorkville states the following:

1. Fox Moraine has listed as exhibits all pleadings from two other Pollution Control Board cases and three lawsuits. Four of these five matters involve Yorkville as one party and Fox Moraine or entities affiliated with Fox Moraine or Fox Moraine's principals as the other party. Yorkville is not even a party in the other matter:

PCB 08-95, *City of Yorkville v. IEPA and Hamman Farms* (Fox Moraine mistakenly listed this as 07-95 in its Exhibit List), filed on June 4, 2008;

PCB 08-96, *City of Yorkville v. Hamman Farms*, filed on June 4, 2008;

Kendall County 2007-OV-43, *City of Yorkville v. Hamman*, filed on September 5, 2007;

Kendall County 2008-L-68, *City of Yorkville v. Fox Moraine, LLC*, filed on October 3, 2008; and

Kendall County 2008-CH-811, *State of Illinois v. Hamman Farms*, filed on September 17, 2008.

2. In discovery and at the five depositions of Fox Moraine personnel, Yorkville repeatedly asked Fox Moraine to produce all documents in support of its appeal. The only documents Fox Moraine has produced are approximately one hundred pages of newspaper articles and one e-mail. Nor has Fox Moraine supplemented its document production since its initial response to Yorkville's document requests.

3. The pleadings identified by Fox Moraine have no relevance to this appeal (nor has Fox Moraine at any point in this proceeding attempted to establish or at all hint at their relevance). Yorkville held hearings on Fox Moraine's landfill application in March and April 2007 and voted on the application on May 24, 2007. All five proceedings identified by Fox Moraine were not even initiated until well after the May 24, 2007 vote. Four of them were not even initiated until some time in 2008.

WHEREFORE, Yorkville respectfully requests that the Hearing Officer bar any use of the pleadings Fox Moraine has identified in its Exhibit List Nos. 15-19.

Respectfully submitted,

UNITED CITY OF YORKVILLE, CITY COUNCIL

By: /s/ Leo P. Dombrowski
 One of Its Attorneys

Dated: April 6, 2009

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CERTIFICATE OF SERVICE

I, Susan Hardt, a non-attorney, certify that I caused a copy of the foregoing **Notice of Filing and United City of Yorkville's Motion in Limine #7**, to be served upon the Hearing Officer and all Counsel of Record listed on the attached Service list by sending it via Electronic Mail on April 6, 2009.

/s/ Susan Hardt

Under penalties as provided by law pursuant to ILL. REV. STAT. CHAP. 110 – SEC 1-109, I certify that the statements set forth herein are true and correct.

SERVICE LIST

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