

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FOX MORaine, 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 July 17, 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 Unopposed Motion for Leave to File Brief in Excess of 50 Pages, *Instant***, 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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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 for Leave to File Brief in Excess of 50 Pages, *Instantly***, 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 July 17, 2009.

/s/ Susan Hardt

[x] 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.

Electronic Filing - Received, Clerk's Office, July 17, 2009
SERVICE LIST

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**YORKVILLE'S UNOPPOSED MOTION FOR LEAVE
TO FILE BRIEF IN EXCESS OF 50 PAGES, INSTANTER**

NOW COMES Respondent, United City of Yorkville, City Council ("Yorkville"), by its undersigned counsel, hereby files its Unopposed Motion for Leave to File Brief in Excess of 50 Pages, *Instanter*, and states as follows:

1. Yorkville is Respondent in this action, in which Fox Moraine Landfill, LLC ("Fox Moraine") contests Yorkville's denial of its request for siting approval for a landfill within Yorkville's city limits. Yorkville denied Fox Moraine's request after finding that Fox Moraine had not met seven of the statutory criteria of Section 39.2(a).

2. Fox Moraine in its appeal attacks not only the denial based on those seven statutory criteria, but also the fundamental fairness of the proceedings in Yorkville, meaning that the already large record has been supplemented with additional evidence. The nearly 20,000 pages of the record of the underlying proceedings along with the transcripts and exhibits from the three-day Board hearing on April 21-23, 2009 generate a record that is extremely voluminous.

3. Fox Moraine submitted a 107-page Post-Hearing Brief followed by a 6-page Supplemental Brief, for a total of 113 pages of argument to which Yorkville must respond.

Yorkville does not object to Fox Moraine's Motion to File Brief in Excess of 50 Pages or its Motion to Supplement its Post-Trial Brief.

4. Where possible, Yorkville has addressed arguments that appear in multiple places in Fox Moraine's Post-Hearing and Supplemental Briefs in a single section to avoid needless repetition.

5. Nevertheless, Yorkville has been unable to respond to Fox Moraine's 113 pages in 50 or fewer pages, though Yorkville has done so in well under 100 pages.

6. Fox Moraine has no objection to Yorkville filing its brief in excess of 50 pages.

7. Yorkville therefore requests that the Board, as it has done in other cases involving lengthy records and many issues, *see County of Kankakee v. City of Kankakee*, PCB 04-33 (March 18, 2004), slip op. at 2; *Peoria Disposal Co. v. Peoria County Bd.*, PCB 06-184 (March 1, 2007), grant Yorkville leave to file the attached brief, which exceeds 50 pages.

WHEREFORE, Respondent Yorkville respectfully requests that the Board grant Yorkville leave to file the attached Post-Hearing Brief, which is in excess of 50 pages.

Dated: July 17, 2009

Respectfully submitted,

**UNITED CITY OF YORKVILLE,
CITY COUNCIL**

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

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