

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,)	
)	
Petitioner,)	
)	
v.)	PCB 2010-103 cons. 2010-104
)	(Pollution Control Facility Siting Appeal)
COUNTY BOARD OF DEKALB)	
COUNTY, ILLINOIS AND)	
WASTE MANAGEMENT OF)	
ILLINOIS, INC.,)	
)	
Respondents.)	
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WASTE MANAGEMENT OF)	
ILLINOIS, INC.)	
)	
Petitioner,)	
)	
v.)	
)	
DEKALB COUNTY BOARD,)	
)	
Respondent.)	

**STOP THE MEGA-DUMP'S RESPONSE TO DEKALB COUNTY BOARD'S
FIRST SET OF DOCUMENT REQUESTS**

NOW COMES the Petitioner, Stop The Mega-Dump ("STMD"), by its attorney, George Mueller and for its Response to DeKalb County Board's First Set of Document Requests produces the following documents:

RESPONSE NO. 1:

Petitioner objects to this request as it is overbroad and vague. Without waiver of this objection and in the spirit of discovery Petitioner attaches certain documents which relate to the case at hand. Such documents include: 1. E-mails and communications

between various parties including STMD members, DeKalb County Board Members, committee members and concerned citizens 2. Letters from Geo-Hydro 3. Memo to Board members 4. Resolution #2009-61 5. Flier by Scott Balice Strategies 6. Host Fee Agreement background information 7. Sections of the public hearings downloaded by Mozilla Firefox 8. Information about the landfill including, legal description, maps, attachments, WMI Payment Guarantee Form, Property Value Guarantee Agreement 8. List of potential witnesses 9. Ad Hoc Solid Waste Committee minutes 10. Executive Committee minutes 11. DeKalb County Board minutes 12. Town of Cortland Board of Trustees minutes 13. Petitioner attaches a list of videos that it may reference (the videos are not attached, however, they are readily viewable online).

RESPONSE NO. 2:

See documents included in Response No. 1

RESPONSE NO. 3:

See documents included in Response No. 1. Investigation continues. Petitioner reserves the right to supplement this Response.

RESPONSE NO. 4:

Petitioner states that the organizational structure of STMD is available for printing on their Facebook page. Petitioner also attaches a photo gallery which includes a list of the chairman, committee members and STMD members.

RESPONSE NO. 5:

Petitioner objects to this interrogatory as being overly broad and burdensome. Without waiving the objection and in the spirit of discovery, Petitioner states that the STMD Facebook page is a "public" page which can be accessed by anyone. Anyone can join

the group, post or comment on the group's page. Also, see documents attached in Response No. 4.

Respectfully submitted,

Stop the Mega-Dump, Petitioner

By: 

George Mueller, Its Attorney

STATE OF ILLINOIS)
)
COUNTY OF DEKALB) SS

AFFIDAVIT OF SERVICE

The undersigned, a non-attorney, being first duly sworn upon oath, states that a copy of the **Stop the Mega-Dump's Response to DeKalb County Boards' First set of Document Requests**, was served upon the following persons via e-mail on the 9th day of August 2010, before 5:00 p.m.

See attached Service List

Service List

Donald Moran
Attorney for WMII
Pederson & Houpt
161 N. Clark St., Suite 3100
Chicago, IL 60601-3242

Sharon L. Holmes
DeKalb County Clerk
110 E. Sycamore St.
Sycamore, IL 60178

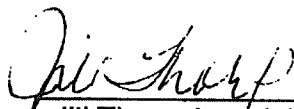
John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, IL 60601

John Farrell
DeKalb County State's Attorney
Legislative Center
200 N. Main Street
Sycamore, IL 60178

Renee Cipriano
Amy Antonioli
Special Counsel for DeKalb County
Schiff Hardin, LLP
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Chicago, IL 60606-6306

Ruth Anne Tobias
DeKalb County Board Chairman
200 N. Main St.
Sycamore, IL 60178

Brad Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
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100 West Randolph
Chicago, IL 60601



Jill Thorp, Legal Assistant

George Mueller - 1980947
MUELLER ANDERSON, PC
609 Etna Road
Ottawa, IL 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile

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ANSWERS TO DEKALB COUNTY BOARD'S FIRST SET OF INTERROGATORIES

NOW COMES the Petitioner, STOP THE MEGA-DUMP ("STMD"), and for its Answers to DeKalb County Board's First Set of Interrogatories state as follows:

ANSWER NO. 1:

Petitioner objects that this interrogatory is overly broad and unduly burdensome. Without waiving such objection and in the spirit of discovery, Petitioner states that STMD is an unincorporated voluntary association of citizens, a citizens' group, and, as of August 3, 2010, there are 1,030 members.. The group is open to the public as are all of the names of the members of the group. In addition, refer to the documents attached to Response No. 4. Dan Kenney is the chairman of the organization and his address is

303 Birchwood Lane, DeKalb, Illinois 60115. Mac McIntyre is the treasurer and his address is 118 Oak St. #101, DeKalb, Illinois 60115.

ANSWER NO. 2:

Refer to the Petitioner's Petition for Review.

ANSWER NO. 3:

The Articles of Rules and Procedures (Sections 5 and 6) were ruled improper and waived by the Hearing Officer on the first day of the public hearing. However, those invalid rules were published in advance of the hearing and prevented full public participation. Those who were not property owners adjacent to the landfill or were otherwise excluded by Section 5 and Section 6(f) of the Articles of Rules and Procedures were prevented or discouraged from participating and/or unable to prepare properly to cross-examine the professional witnesses employed by Waste Management, or they simply failed to appear. In particular, The following is a list of some of the parties whose participation was limited restricted or discouraged.

Mac McIntyre

Dan Kenney

Mark Charvat
102 Cobblestone Trail
DeKalb, IL 60115
815-756-8851

Danica Lovings
21230 Virginia Road
DeKalb, IL 60115
815-758-8021
815-901-4625.

Lisa Wilcox
1466 Moluf Street
DeKalb, IL 60115

815-756-5380

In addition, see attached page of additional parties whose participation was limited restricted or discouraged. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 4:

See answer to No. 2. Additionally the County Clerk and other county representatives failed to provide copies of the application on request, failed to provide information on how copies could be made by outside sources, failed to provide electronic copies of the application, stated that copies were not available, stated that electronic copies were not available, failed to provide access to view and copy the application, failed to respond to questions regarding the cost and time involved in copying the application or parts thereof, lectured members of the public on the futility of opposition and on the financial benefits of the expansion and otherwise made access to the application prior to the siting hearing difficult or impossible. See list attached.

ANSWER NO. 5:

See list attached to Answer No. 4 herein, as well as, the documents attached in response to the Request for Documents .

ANSWER NO. 6:

Petitioner states that a number of the DeKalb County Board members prejudged the Site Location Application. In particular, Julie Fauci evidenced prejudgment through email exchanges with citizens as well as verbal exchanges, emails to Barbara Votaw and Dan Kenney, verbal exchanges with Dan Kenney and Lynn Fazekas at committee meetings. Riley Oncken evidenced prejudgment through email exchanges with the

County Board and to Steve Walt and oral exchanges at the public hearing. Mike Haines evidenced prejudgment through email. Anita Turner evidenced prejudgment at a public hearing. In addition to other Board members, Ruth Anne Tobias and Pat Vary in particular prejudged. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 7:

See answer to No. 2 and 4. The Site Location Application is 6791 pages contained in nine bound notebooks. Initially the County Board restricted access to the application to a single location, a small room in Sharon Holmes' (County Clerk) office. There was a delay in getting the copies to the library because of a corrupted file on the electronic CD version (which was provided by Waste Management) of the Site Location Application.. A list is attached of the parties who were improperly limited, restricted and/or discouraged from participation. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 8:

See Answer No. 7.

ANSWER NO. 9:

See Answer No. 6. Also, the private tour of WMII Will Cy. Facility caused prejudgment. Also the County Board prejudged the application based on earmarking of contemplated host fees to pay for capital improvements and to guarantee bonds.

ANSWER NO. 10:

See Answer to No. 6 and No. 9.

ANSWER NO. 11:

DeKalb County Board members were given a private tour, which included lunch, of at least one landfill operated by Waste Management. Not a single citizen was given the same tour. The tour dates were offered on July 16, 2009 or August 18, 2009 and for Board members that could not make those dates Waste Management offered three additional dates in September of 2009. In addition, see documents attached to the response to request to Produce. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 12:

Refer to the Petition for Review.

ANSWER NO. 13:

See documents attached to the response to Request to Produce.

ANSWER NO. 14:

STMD objects to this interrogatory as calling for a legal conclusion.

ANSWER NO. 15:

Petitioner refers Respondent to the Petition for Review and the documents attached to the Response to Request for Production. Respondents are also referred to the record of the public hearing. Without limitation and as an example of the improper conduct of the hearing, Section 7(a) of the Articles of Rules and Procedures state that the applicant has the burden of proof. Clearly the Pollution Control Committee and the County Board placed that burden on the Objectors. The only non-paid expert witness was Dr. Aubrey Serewicz, whose testimony was ignored by the Board. In fact, Anita Turner was heard berating this witness out loud at a public hearing. The fact that the Board chose to ignore valid testimony regarding the risks of the landfill expansion tends to show that the

DeKalb County Board failed to consider the obvious and grave risks to the residents in the area and the children attending school at Cortland Elementary School. The traffic expert that testified failed to include farm traffic in his study and proceeded to impeach his own testimony by stating false and erroneous enforcement procedures for truck operators who failed to use the designated routes. Dale Hoekstra referred to H₂S as a nuisance gas as he admitted Waste Management's deliberate decision not to inform the public of a gas leak from the existing facility. County Board members learned for the first times that it was H₂S causing the rotten egg odor complaints and not methane gas as was reported by Waste Management at numerous meetings ranging over a year. Their geology expert clearly gave erroneous information about the site not being in a seismic zone. The Board ignored correspondence received during the 30-day period following the Public Hearing, which included a report from Geo-Hydro that the recent earthquake automatically places the site in a seismic zone. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 16:

DeKalb County Board members were given private tours, which included lunch, of at least one landfill operated by Waste Management. Not a single citizen was given the same tour. In addition, Riley Oncken assisted in arranging a keynote speaker, who was a representative from Waste Management, for a local service organization. See emails attached to response to Request for Production No. 1. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 17:

See the Petition for Review, these Answers to Interrogatories and the responses to the Request to Produce. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 18:

Refer to Petitioner's Petition for Review. In addition, see the documents attached to the response to Request for Production No. 1 and Answers to previous Interrogatories. Additionally and without limitation concern for the safety and welfare of the citizens was not taken into consideration until after the Host Agreement was approved (and most believed it was a "done deal") and after tipping fees had been earmarked for various projects held dear by respective Board members. Negotiations for the Host Agreement became tied to those earmarks. Julie Fauci threatened to withdraw her support of the agreement if tipping fees earmarks for the Forest Preserve district were stricken from the agreement. The Public Notice of a public hearing on selling bonds for the projects listed the hosting fees as a revenue source for debt repayment. County Board members were instructed to have no communications with their constituents regarding the imminent Waste Management siting application hearing which left answers from citizens regarding even the most basic questions unanswered. According to Ed Miguel, citizens were afraid of being arrested if they talked to county Board members. These questions were referred to paid staff who told inquiring citizens to enjoy their reading of the 6,000 plus page siting application, which was difficult in itself to obtain. In addition to other statements attached, Frankie and Bob Benson, who are property owners less than a mile from the proposed landfill expansion, state that they were confused by the advertised information about who would have the right to speak at the public hearings, if

they had to register and that even this information came to them at a very late hour.

Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 19:

See Answer No. 18.

ANSWER NO. 20:

See Answer No. 3.

ANSWER NO. 21:

See the Petition for Review, the response to Request to Produce and previous Answers.

ANSWER NO. 22:

See the Petition for Review, the response to Request to Produce and previous Answers. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 23:

See the Petition for Review, the response to Request to Produce and previous Answers to Interrogatories. Investigation continues and Petitioner reserves the right to supplement this answer.

ANSWER NO. 24:

See the Petition for Review, the response to Request to Produce and previous Answers to Interrogatories. Investigation continues and Petitioner reserves the right to supplement this answer.

**ATTACHMENT TO
INTERROGATORY NO. 3**

Lea Ann Brei
4116 Ellen Drive
Cortland IL 60112
815-758-2186
Problems w/process/ CB members/Village of
Cortland mayor.

David Kolar
623 Franklin Street
DeKalb IL 60115
815-787-1815
Problems w/access & process. Talks &
correspondence w/ CB.

Kerry Mellot
22872 Malta Road
Malta IL 60150
815-825-903
Problems w/access & w/ process. Issues w/
details of application.

Barbara Votaw
637 Easy Street
Sycamore IL 60178
815-895-6781
Correspondence w/Julie Fauci which indicated
prejudgment. Problems w/ process & access.

Dr. Aubrey Serewicz
403 South 2nd Street
DeKalb IL 60115
815-758-6594
Issues w/ factual information related to safety
of landfill esp re: H2S.

Dan Steimel
201 Lexington
DeKalb IL 60115
815-758-7305
Farms next to landfill grew up next to landfill/
issues w/ process & access: Correspondence or
talks w/ CB.

Roger Steimel
18757 Somonauk Road
DeKalb IL 60115
815-756-5092
Former CB member/lived lifetime next to
landfill/ problems w/process & access.

Misty Haji Sheikh
529 Park Ave.
DeKalb IL 60115
815-787-4419
Problems w/access & conversations w/CB
members

Barbara Potuzink
111 East Humming Bird
Cortland IL 60112
Problems w/ access/process. Took child from
the school which is ¼ of mile from landfill.
Problems w/Cortland officials.

Dan Kenney
303 Birchwood Lane
DeKalb IL 60115
Access problems/ talk w/ Julie Fauci of CB that
indicated prejudgment / & other CB
correspondence.

Linda Whipple
2406 Nina Street
Cortland IL 60112
Process issues/ CB contacts. Talked w/
neighbors within ¼ of mile that were never
contacted.

Mac McIntyre
118 Oak St. #101
DeKalb, IL. 60115
815-757-6822
Problems with access and process.

Mark Charvat

102 Cobblestone Trail

DeKalb IL 60115

815-756-8851

Problems w/access to application. Interactions
w/CB staff & members.

Rev. Bill Moore

119 Windsor Drive

DeKalb IL 60115

815-756-5350

Problems w/process & correspondence & talks
w/ CB members

Danica Lovings

21230 Virginia Road

DeKalb IL 60115

Home phone: 815-758-8021

Cell Phone: 815-901-4625

Problems w/ process & access. Correspondence
w/CB. See her written summary.

Atty Clay Campbell

331 West State Street

Sycamore IL 60178

815-899-9171

Access issues/ process issues. Talks w/CB
members.

Lisa Wilcox

1466 Moluf Street

DeKalb IL 60115

815-756-5380

Problems w/process/access. Correspondence
w/CB members Hearing comments by CB
members. See written summary.

Lynn Fazekas

422 Luceme Lane

DeKalb IL 60115

815-756-3617

Problems w/access & w/ process

**ATTACHMENT TO
INTERROGATORY NO. 4**

Electronic Filing - Received, Clerk's Office, AUGUST 9, 2010

Rev. Bill Moore
119 Windsor Drive
DeKalb IL 60115
815-756-5350
Problems w/process & correspondence & talks
w/ CB members

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INTERROGATORY NO. 7**

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Problems w/access & w/ process

STATE OF ILLINOIS)
)
COUNTY OF DEKALB) SS

AFFIDAVIT OF SERVICE

The undersigned, a non-attorney, being first duly sworn upon oath, states that a copy of the **Answers to DeKalb County Board's First Set of Interrogatories** was served upon the following persons by e-mailing such documents on the 9th day of August, 2010, before 5:00 p.m.

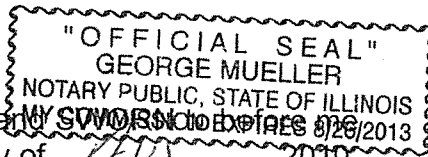
See attached Service List

STATE OF ILLINOIS)
 :
COUNTY OF DEKALB) ss.

I, **DAN KENNEY**, being first duly sworn on oath, depose and state that he is the Chairman of Stop The Mega-Dump, Petitioner in the above-captioned matter, that he has read the foregoing document, and the answers made herein are true, correct and complete to the best of his knowledge and belief.


DAN KENNEY, CHAIRMAN OF STOP THE
MEGA-DUMP

SUBSCRIBED and SWORN to before me
this 6 day of Aug, 2010.





NOTARY PUBLIC

Service List

Donald Moran
Attorney for WMII
Pederson & Houpt
161 N. Clark St., Suite 3100
Chicago, IL 60601-3242

Renee Cipriano
Amy Antonioli
Special Counsel for DeKalb County
Schiff Hardin, LLP
233 S. Wacker Drive, Suite 6600
Chicago, IL 60606-6306

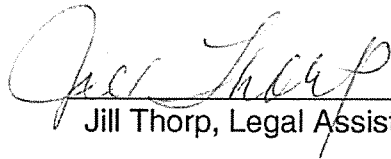
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DeKalb County Clerk
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Sycamore, IL 60178

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John Farrell
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Legislative Center
200 N. Main Street
Sycamore, IL 60178



Jill Thorp, Legal Assistant

George Mueller - 1980947
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(815) 431-1501 - Facsimile