

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OCT 07 2015
STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.,)

Petitioner,)

v.)

VILLAGE OF ROCKDALE, ILLINOIS)
BOARD OF TRUSTEES and)
ENVIRONMENTAL RECYCLING AND)
DISPOSAL SERVICES, INC.,)

Respondents.)

PCB 16 - 56

(Pollution Control Facility Siting Appeal)

NOTICE OF FILING



ORIGINAL


TO: See Attached Service List

PLEASE TAKE NOTICE that on October 7, 2015, Waste Management of Illinois, Inc. filed with the Illinois Pollution Control Board, James R. Thompson Center, Suite 11-500, 100 West Randolph, Chicago, Illinois 60601, an original and nine copies of the attached **Waste Management Of Illinois, Inc.'s Petition For Hearing To Contest Site Location Approval** in this proceeding, a copy of which is attached and served upon you.

Date: October 7, 2015

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
Telephone: (312) 641-6888

By:


Donald J. Moran

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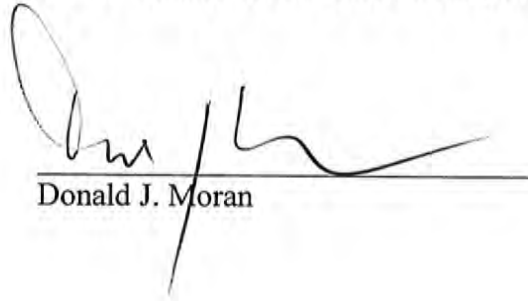
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STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, Donald J. Moran, an attorney, certify that I have served the attached **Waste Management Of Illinois, Inc.'s Petition For Hearing To Contest Site Location Approval** on the above-named parties by depositing same in the U.S. mail at 161 N. Clark Street, Chicago, Illinois 60601, at 5:00 p.m. on October 7, 2015.



Donald J. Moran

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.,)

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PCB 16 - 56

(Pollution Control Facility Siting Appeal)

**PETITION FOR HEARING
TO CONTEST SITE LOCATION APPROVAL**

Petitioner Waste Management of Illinois, Inc. ("WMII"), by its attorneys Pedersen & Houpt, respectfully requests a hearing to contest the decision of the Village of Rockdale Board of Trustees ("Village Board") granting site location approval for the proposed Moen Transfer Station ("Facility"). In support, WMII states as follows:

1. This Petition is filed pursuant to Section 40.1 of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/40.1), and in accordance with Sections 107.200 - 107.208 of the Illinois Pollution Control Board Procedural Rules (35 IAC 107.200-208).

2. On or about December 12, 2014, Environmental Recycling and Disposal Services, Inc. ("Applicant") filed an application with the Village of Rockdale requesting site location approval for a proposed municipal solid waste transfer station located on a 2.18-acre parcel at 2277 Moen Avenue in Rockdale, Illinois.

3. Public hearings on the site location application were held March 23, 2015, March 24, 2015, May 20, 2015 and May 21, 2015. On September 3, 2015, the Village Board conditionally approved the site location application. A true and correct copy of the Village

Board decision granting site location approval is attached hereto and made a part hereof as Exhibit A.

4. WMII appeared and participated in the public hearings. WMII operates two waste transfer stations that are located within one-and-one quarter (1¼) miles of the Facility.

5. WMII contests the Village Board's conditional siting approval because the Applicant's statutorily-required notice under Section 39.2(b) of the Act misstated and misrepresented the "nature and size" of the Facility, and therefore did not satisfy Section 39.2(b)'s jurisdictional requirements.

6. WMII further contests the Village Board's conditional siting approval because the information presented by the Applicant failed to establish that the Applicant met criteria (i), (ii), (v) and (viii) as required by Section 39.2(a) of the Act:

(a) criterion (i): that the Facility is necessary to accommodate the waste needs of the area it is intended to serve;

(b) criterion (ii): that the Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(c) criterion (v): the plan of operations for the Facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents; and

(d) criterion (viii): that as the Facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or Solid Waste Planning and Recycling Act, the Facility is consistent with that plan.

7. WMII requests that the Board find that Applicant's pre-filing notice failed to satisfy the requirements of Section 39.2(b) of the Act, and that the Village Board therefore lacked jurisdiction to consider the siting application.

8. In addition, WMII requests that the Board reverse the conditional grant of siting approval because the Village Board's findings on criteria (i), (ii), (v) and (viii) are against the manifest weight of the evidence.

WHEREFORE, WMII respectfully request that the Board enter an order (a) setting for hearing this contest of the Village Board's conditional siting approval, (b) vacating or reversing the Village Board's conditional siting approval, and (c) providing such other and further relief as the Board deems appropriate.

Dated: October 7, 2015

Respectfully submitted,

WASTE MANAGEMENT OF ILLINOIS, INC.

By: 

Donald J. Moran

Donald J. Moran
PEDERSEN & HOUP
161 North Clark Street, Suite 2700
Chicago, Illinois 60601
Telephone: (312) 641-6888

ORDINANCE NO. 1026

AN ORDINANCE CONDITIONALLY APPROVING THE APPLICATION FOR LOCAL SITING APPROVAL OF ENVIRONMENTAL RECYCLING AND DISPOSAL SERVICES, INC. FOR THE MOEN TRANSFER STATION FACILITY

WHEREAS, on December 12, 2014, Environmental Recycling and Disposal Services, Inc. (“Applicant”) filed an application with the Village of Rockdale for siting approval of a pollution control facility within Rockdale, Illinois, for the development of a new municipal waste transfer station located at 2277 Moen Avenue, pursuant to Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2) (“Act”); and

WHEREAS, Ordinance No. 1006 (the “Siting Ordinance”) enacted by the Board of Trustees of the Village of Rockdale, Will County, Illinois, establishes a procedure for pollution control facility site approval in the Village of Rockdale, Will County, Illinois; and

WHEREAS, following notice, the Village of Rockdale held public hearings on March 23, 2015, March 24, 2015, May 20, 2015 and May 21, 2015, pursuant to the Act and Rockdale’s Siting Ordinance; and

WHEREAS, the County of Will and Waste Management of Illinois, both parties that appeared at the Hearing by and through counsel moved to dismiss the application asserting that the Village of Rockdale lacked jurisdiction due to fatal defects in the pre-filing notice required by 415 ILCS 5/39.2. The Applicant filed a Response in opposition to the motions of the County of Will and Waste Management, and the County and Waste Management filed their replies.

WHEREAS, the Hearing Officer appointed to preside over the public hearing has made his report and recommendation regarding the Motions to Dismiss and regarding conditional siting approval to the Board of Trustees of the Village of Rockdale, based upon the siting application, notifications, hearings, exhibits, public comment and the record, which includes the following determinations, subject to the decision of this Village Board:

1. The Applicant complied with all pre-filing notice requirements of Section 39.2(b) of the Act and the pre-hearing notice requirements of Section 39.2(c) of the Act;
2. The Village has jurisdiction to consider the Application;
3. The siting proceedings herein, both procedurally and substantively, complied with the requirements of fundamental fairness;
4. The Applicant has not demonstrated that the proposed Facility meets Criterion 1: “the facility is necessary to accommodate the waste needs of the area it is intended to serve....”;
5. The Applicant has not demonstrated that the proposed Facility meets Criterion 2; however, with the imposition of and compliance with the following special conditions, the proposed Facility meets Criterion 2;

- a) The Village Engineer must review and approve the final design and storm water management plan for compliance with the Will County Storm Water Ordinance and be satisfied that the Facility will reasonably protect the public from untreated leachate leaving the property.
- b) A limitation on throughput to 300 tons per day;
6. The Applicant has demonstrated that the proposed Facility meets Criterion 3;
7. The Applicant has demonstrated that the proposed Facility meets Criterion 4;
8. The Applicant has not demonstrated that the proposed Facility meets Criterion 5; however, with the imposition of and compliance with the following special conditions, the proposed Facility meets Criterion 5:
 - a) The Plan of Operations must include additional personnel—other than the operator of the wheel loader and operator of the scale house—to direct traffic during peak hours.
 - b) The Village Engineer must review and approve the final site plan, traffic circulation design, signage and plan of operations to minimize the danger from traffic conflicts.
 - c) A limitation on throughput to 300 tons per day;
9. The proposed Facility is consistent with all appropriate and relevant location standards, including airport setback requirements, wetlands standards, seismic impact zone standards, and residential setback requirements;
10. The Applicant has demonstrated that the proposed Facility meets Criterion 6;
11. The Applicant has demonstrated that Criterion 7 is satisfied;
12. The Applicant has demonstrated that the proposed Facility meets Criterion 8;
13. The Applicant has demonstrated that Criterion 9 is satisfied; and
14. The Applicant's operating history demonstrates that the Applicant is qualified to operate the Facility safely and properly and provides no basis to deny the Application.

WHEREAS, the Corporate Authorities of the Village met on September 3, 2015 to deliberate, and to review and consider the testimony of all witnesses and the evidence admitted into the record at the public hearing, the hearing record as a whole, the argument presented by legal counsel for each of the parties, the above filed written comments, and the proposed findings of fact and conclusions of law submitted by the parties herein, in light of each of the Criterion

established for consideration of siting of pollution control facilities in Section 39.2, and to the extent applicable, the provisions of the Siting Ordinance; and

WHEREAS, Section 39.2 allows the Corporate Authorities of the Village, in granting siting approval, to impose such conditions as may be reasonable and necessary to accomplish the purposes of Section 39.2 and as are not inconsistent with Illinois Pollution Control Board regulations; and

WHEREAS, during the above deliberations, the Corporate Authorities found that the Applicant complied with all the pre-filing notice requirements of Section 39.2(b) of the Act, and the pre-hearing notice requirements of Section 39.2(c) of the Act and that the Village has jurisdiction to consider the application and found further that the Applicant met Criterion (1), (3), (4), (6), (7), (8) and (9) of Section 39.2 without conditions, and that the Applicant met Criterion (2) and (5) of Section 39.2 subject to special conditions provided below; and

WHEREAS, after careful review and consideration, the Corporate Authorities of the Village desire to adopt the Hearing Officer's Findings as the basis of their decision as to whether the Village has jurisdiction to consider the Application and whether the Applicant met the Criterion under Section 39.2, except the Hearing Officer's findings with respect to Criterion 1 "The facility is necessary to accommodate the waste needs of the area it is intended to serve," and desire to replace the special conditions regarding Criterion 2 and Criterion 5 with the special conditions provided below.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ROCKDALE, WILL COUNTY, ILLINOIS, pursuant to its home rule powers as provided by Article VII, Section 6 of the Illinois Constitution and the authority under Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2), that except as set forth below, the Report of Hearing Officer Recommended Findings of Fact and Recommended Conditions of Approval, attached hereto as Exhibit A, is adopted by the Board of Trustees of the Village of Rockdale.

BE IT FURTHER RESOLVED, that the Village of Rockdale Board of Trustees has jurisdiction and hereby determines that Environmental Recycling and Disposal Services, Inc. has satisfied the applicable criteria, subject to the special conditions set forth below; and

BE IT FURTHER RESOLVED, that the Village of Rockdale Board of Trustees conditionally approves the request of Environmental Recycling and Disposal Services, Inc. for site approval of its proposed non-hazardous solid waste transfer station, provided that the special conditions are not inconsistent with regulations of the Pollution Control Board or the terms of any development or operating permits approved by the Illinois Environmental Protection Agency.

SECTION 1: The preceding "Whereas" clauses are hereby incorporated into this Ordinance as if they were fully set forth herein.

SECTION 2: Except as provided in Section 3, which replaces the Hearing Officer's findings, recommendations and conclusions of law as to Criterion 1, and except as provided in Section 4, which replaces the Hearing Officer's proposed findings of fact and conclusions of law with respect to the special conditions relating to Criterion 2 and Criterion 5 of Section 39.2, the Corporate Authorities of the Village of Rockdale hereby adopt the Report of Hearing Officer Recommended Findings of Fact and Recommended Conditions of Approval and Proposed Findings of Fact and Conclusions of Law in its entirety, as attached hereto as Exhibit "A" and incorporated as if fully set forth herein, and by so doing, the Corporate Authorities of the Village of Rockdale expressly adopts, in expansion of, but not in limitation of the foregoing, the introduction, all findings of fact, all conclusions of law, citations, recommendations, analysis, references and incorporations made in the Report of Hearing Officer Recommended Findings of Fact and Recommended Conditions of Approval and Proposed Findings of Fact and Conclusions of Law as its own to the same extent as though fully set forth herein. The Corporate Authorities of the Village of Rockdale further find, in expansion of, but not in limitation of the foregoing, that it has proper jurisdiction to hear the Application, that all notices required by law were duly given, that the procedures outlined in Section 39.2 and the Siting Ordinance were duly followed, and such procedures were fundamentally fair to the Applicant, all parties, and all participants involved. The Motions to Dismiss filed by the County of Will and by Waste Management of Illinois are denied.

SECTION 3: The Applicant has met its burden of proof as to Criterion 1 of Section 39.2. The first criterion that must be met is that "the facility is necessary to accommodate the waste needs of the area it is intended to serve." Initially, it should be noted that a transfer station does not have to be necessary in absolute terms, and the Applicant is not required to show absolute necessity in order to satisfy Criterion 1.

John Hock, a professional engineer in six states, including Illinois, was Applicant's witness who testified that Criterion 1 has been met because the facility is necessary to accommodate the waste needs of the intended service area. Mr. Hock is the vice president of Civil and Environmental Consultants, Inc. and manages its Lombard office. He has over 27 years of experience in the solid waste industry during which time he has been involved with the development of a variety of solid waste management facilities, including the design and permitting of numerous transfer stations.

The Applicant has defined the proposed service area as consisting of Will County, several adjoining townships to the north and northeast of Will County, the eastern portion of Kendall County and the northeast portion of Grundy County adjacent to Will County. Case law clearly establishes that it is the Applicant's right to define the service area. Mr. Hock evaluated the waste generation and disposal trends in the service area and considered the benefits of the proposed transfer station. He noted that waste acceptance volumes have generally been decreasing at the Prairie View Recycling and Disposal Facility, which, according to the Will County Solid Waste Management Plan is intended to meet the waste disposal needs of the county and townships, municipalities and villages which are partially within the county and the service area. According to Mr. Hock, a significant amount of waste generated in the service area is being transferred to other remote landfills.

Mr. Hock evaluated the three other transfer stations in the service area. Those are the Rockdale Transfer Station owned by Waste Management, but accepting only source separated recyclables at the present time at about 200 tons per day. The Citiwaste facility which is located in Joliet, but only accepts C&D debris, landscape waste and recyclables. The Joliet Transfer Station is the only transfer station in the area that currently accepts general municipal solid waste. The Needs Evaluation in the Application ("Needs Reports") found and Mr. Hock pointed out that the Moen Transfer Station Facility service area currently generates between 2,392 and 3,718 tons per day of solid waste, of which perhaps 10% can be direct hauled to the Prairie View Recycling and Disposal Facility. The average daily volume of the Joliet Transfer Station is approximately 1,300 tons, leaving a transfer capacity shortfall in the service area of 853-2,046 tons per day. This conclusion is also found in the Needs Report. Additionally, population trends indicate that the amount of waste generated within the service area will continue to increase. Mr. Hock considered waste disposal volume requiring disposal for the period 2010 to 2040. As of 2010, waste requiring disposal ranged from 2,446 to 3,799 tons per day. Those volumes would increase based on the area's population growth over 30 years, from 3,922 to 6,103 tons per day. He then analyzed trends in the waste disposal system, specifically looking at landfill and transfer station municipal solid waste volume and site life within the service area.

We find that the application, Mr. Hock's testimony, and written public comments amply demonstrated that the Joliet Transfer Station is over extended. Specifically, Mr. Hock testified that, based on information Waste Management of Illinois submitted as Exhibits to the Hearing, that the Joliet Transfer Station has been consistently operating beyond the conditions of its permit, which supports Mr. Hock's testimony that the Joliet Transfer Station is operating at or beyond capacity at times and that the Moen Transfer Station Facility would provide needed transfer station capacity. Mr. Nebel conceded as much when he testified regarding the amount of waste often stored overnight beyond the Joliet Transfer Station permitting, and the presence of a large hole in the Joliet Transfer Station tipping floor that went unrepaired for months.

Mr. Hock pointed out that the development of the Moen Transfer Station Facility would provide another option to waste haulers in the area, and generally have the benefit of promoting lower competitive prices and higher quality service through increased competition. In addition, there would be increased operational flexibility through longer working hours, there would be a direct benefit to the County in that the development of the Moen Transfer Station Facility will, pursuant to both the intent of the operator and the secondary host agreement with Will County, increase disposal at Prairie View Recycling and Disposal Facility, from which the County receives substantial host fees and \$5,000 annually to help fund collection efforts. The direct benefit to Rockdale would be continuation of the terms of Environmental Recycling and Disposal Services, Inc.'s host agreement with Rockdale, by which free pick up and disposal is provided to Rockdale residents for a 20-year period. Mr. Hock also pointed out that locating the Moen Transfer Station Facility centrally in the service area would reduce environmental impacts by increasing the efficiency of the waste collection and disposal system in the service area, reducing fuel consumption, vehicle emissions and reducing wear and tear on the roads. Further, the Moen Transfer Station Facility will facilitate more waste getting to the Prairie View Recycling and Disposal Facility, which is what the service area needs and wants. He concluded that in his expert opinion, the Moen Transfer Station Facility is necessary to accommodate the waste needs of the area it is intended to service.

We also note that three other waste haulers/disposal services have provided public comment indicating that the proposed Moen Avenue Transfer Station Facility would benefit their businesses. Additionally, the community/public comment was nearly 100% in favor of the proposed Moen Avenue Transfer Station Facility.

Ms. Sheryl Smith testified on behalf of Waste Management with respect to Criterion 1. Her expertise is as a senior project manager with AECOM, but she is not an engineer, nor licensed in any other profession. Her testimony appeared to focus on whether a new landfill is needed in the service area, and she stated that Prairie View Recycling and Disposal Facility has the capacity to accept all of the municipal solid waste generated in the Will County service area. She was unaware of the expected composition of solid municipal waste to be received at the Moen Transfer Station Facility. She believed that the Citiwaste facility could significantly provide transfer capability even though it does not take general refuse, which will be the bulk of the waste received by the Moen Transfer Station Facility. Ms. Smith pointed out that there were no legal restrictions on how much waste the Joliet Transfer Station could take, and she was unaware of the concept of working or functional capacity. Even though Ms. Smith has opined that a transfer station was not necessary at the proposed location, she did not know where the population centroid of either Will County or the service area was nor did she know whether there were available locations for transfer stations further North in the service area.

There were other flaws in her testimony but Ms. Smith did admit that her mathematical waste generation versus disposal capacity analysis is not necessarily the only valid way of demonstrating need. Ms. Smith testified that her "methodology for determining need" is not required by any Illinois statute or administrative code provision. She admitted that hers was not the only valid methodology for determining need. We disagree with Ms. Smith's opinion regarding the lack of need, especially in light of the fact that the only transfer station in the Prairie View RDF that accepts municipal solid waste in Will County is so taxed by high volumes of waste.

Kurt Nebel also testified on behalf of Waste Management and the substance of his testimony basically was that the Joliet Transfer Station is not beyond capacity. He also said that sometimes it just can't be helped that at times up to 30 loads were left on the tipping floor and that discharged loads end up partially outside the building. He testified that the Joliet Transfer Station's maximum daily throughput in 2014 was 1,800 tons. He acknowledged that Waste Management has recently acquired the Naperville hauling contract and that this would add about 150 tons per day to the volume to be received at Joliet Transfer Station. Mr. Devin Moose testified and the gist of his testimony was that the Application does not prove need and that the failure to evaluate available transfer capacity was fatal to Environmental Recycling and Disposal Services, Inc.'s need analysis.

We reject the finding and position that the Applicant's proof of need was defective as a matter of law simply because Mr. Hock failed to conduct a traditional comprehensive transfer capacity analysis that analyzed, specifically, waste production and waste disposal capacities (in this case, transfer station and direct-haul capabilities) in the service area set forth in the application. The Applicant's position is that there are other ways to do a needs analysis under

Criterion 1 and believes that it has adequately demonstrated that more waste is being generated and will be generated in the service area than is presently being transferred out by facilities in the service area. As a result, a large amount of waste is leaving the service area at significant environmental and economic cost in terms of fuel use, road wear and greenhouse gas emissions. Mr. Hock has submitted more detailed evidence quantifying the economic and environmental benefits of halting this outflow in his post hearing public comment. Even if it could be argued that this approach may not constitute a “typical” needs analysis, we find the interrelated factors of transportation, environmental and economic matters to be worthy of proper consideration in undertaking a needs analysis and germane to Criterion 1. In our view, a needs assessment may include an analysis of whether another transfer station is currently “needed” for the service area to reduce negative environmental impacts in the area intended to be served.

In addition, although perhaps Mr. Hock’s opinion may be based on a more simplistic method of analysis, the Applicant did present testimony that the proposed transfer station is reasonably required by the waste needs of the area. As noted, the Joliet Transfer Station, the only municipal solid waste transfer station in the service area, is currently over extended, a situation that will only get worse now that an additional 150 tons per day will be coming in from Naperville. Lastly, the economic, environmental and competitive benefits that factored into Mr. Hock’s conclusions on need, have not been rebutted. Mr. Hock opined that the proposed facility is necessary to accommodate the waste needs of the area it is intended to serve. We find his expert testimony and public comments to be more credible and persuasive than the testimony of Mr. Moose and Ms. Smith.

As noted, the Applicant is not required to show absolute necessity in order to satisfy Criterion 1, but must show the facility is reasonably required by the waste needs of the area intended to be served, taking into consideration the waste production of the area and the waste disposal capabilities, along with other relevant factors. In this case, the Applicant presented evidence that the Moen Transfer Station Facility is needed in the area it is intended to serve in part because of these environmental and economic factors but also to help divert material that would otherwise burden existing transfer stations. Each siting application is viewed on the basis of the totality of the circumstances in the defined service area and the unit of local government hosting the facility. Here, we find enough merit in the application, testimony and public comments to support a decision that Applicant met its burden of proof of demonstrating a need for the transfer station and on the requirements of Criterion 1.

SECTION 4: Based on the Application, expert testimony and record, we find the following:

A. Criterion 2 – The determination of Criterion 2 is primarily a matter of assessing the credibility of expert witnesses. *Fairview Area Citizens Taskforce v. Illinois Pollution Control Board*, 198 Ill.App.3d 541, 552, 555 N.E.2d 1178, 1185 (3d Dist. 1990); *CDT Landfill Corp. v. City of Joliet*, 1998 WL 112497 (Ill. Pollution Control Board). In the Corporate Authorities’ opinion, Mr. Hock’s testimony was the more thorough and credible testimony on this issue. Accordingly, we find that the Applicant has met its burden of proof as to Criterion 2 of Section 39.2, the Moen Transfer Station Facility is designed, located and proposed to be operated so that

the public health, safety and welfare will be protected, provided that the Applicant operates the Facility in accordance with the following special conditions:

1. The Moen Transfer Station Facility shall have a limitation on throughput to 300 tons per day. However, the Village of Rockdale will designate a contact person who can authorize temporary operation in excess of the daily maximum tonnage as circumstances dictate. In addition, the Applicant can request authorization to increase these daily limits up to a maximum of 600 tons per day, and the Village of Rockdale may increase these limits by Resolution or Ordinance.
2. The following wastes and materials shall not knowingly be accepted at the Moen Transfer Station Facility:
 - Hazardous Substances (as defined by Section 3.215 of the Environmental Protection Act);
 - Hazardous Waste (as defined by Section 3.220 of the Environmental Protection Act);
 - Special Waste (as defined by Section 3.475 of the Environmental Protection Act);
 - Potentially Infectious Medical Wastes (as defined by the Environmental Protection Act in Section 3.84);
 - Universal Waste (as defined by 35 IL Admin. Code Part 733 including batteries, pesticides, mercury-containing equipment and lamps);
 - Regulated Asbestos Containing Materials;
 - Polychlorinated biphenyls (PCB) Wastes;
 - Used Motor Oil;
 - Liquid Wastes;
 - Source, special or by-product nuclear materials;
 - Radioactive Wastes (both high and low level);
 - Sludge;
 - White goods (incidental white goods received at the proposed Transfer Station Facility will be segregated and stored for pickup by an off-site recycler);
 - Lead-acid automotive batteries (incidental automotive batteries received at the proposed Transfer Station Facility will be segregated and stored for pickup by an off-site recycler); and
 - Used Tires (incidental tires received at the proposed Transfer Station Facility will be segregated and stored for pickup by an off-site recycler).
3. The Moen Transfer Station Facility shall utilize load check and random inspection procedures to screen out the above-referenced unauthorized wastes.
4. Environmental Recycling and Disposal Services, Inc. shall operate and maintain the Facility in substantial conformance with the statements and representations contained in its Application and in the testimony of its witnesses at hearing, including procedures and control measures for the following:

- Cleaning Procedures
- Vector Control
- Dust and Mud Control
- Odor Control
- Litter Control
- Noise Control
- Fire Control and Prevention
- Site Security

5. The Village Engineer must review and approve the final design and storm water management plan for compliance with the Will County Storm Water Ordinance and be satisfied that the Facility will reasonably protect the public from untreated leachate leaving the property.

B. Criterion 5 - To meet this Criterion, the Applicant must show that there is a plan of operation designed to minimize the danger. As in any industrial setting, the potential exists for harm both to the environment and the residents. *Industrial Fuels & Resources v. Illinois Pollution Control Board*, 227 Ill.App.3d 533, 547, 592 N.E.2d 148, 157-58 (1st Dist. 1992). The key to this criterion is minimization. *Id.*, citing *Wabash and Lawrence Counties Taxpayers and Water Drinkers Assoc.*, 198 Ill.App.3d 388, 394, 555 N.E.2d 1081, 1086 (5th Dist. 1990). "There is no requirement that the applicant guarantee no accidents will occur, for it is virtually impossible to eliminate all problems. *Id.* Guaranteeing an accident-proof facility is not required." *Industrial Fuel*, 227 Ill.App.3d at 547, 592 N.E.2d at 157-58. As such, the Corporate Authorities find that the Applicant has met its burden of proof as to Criterion 5 of Section 39.2, subject to the following special conditions:

1. The Moen Transfer Station Facility shall have a limitation on throughput to 300 tons per day. However, the Village of Rockdale will designate a contact person who can authorize temporary operations in excess of the daily maximum tonnage as circumstances dictate. In addition, the Applicant can request authorization to increase these daily limits up to a maximum of 600 tons per day, and the Village of Rockdale may increase these limits by Resolution or Ordinance.
2. The Plan of Operations must include additional personnel – other than the operator of the wheel loader and operator of the scale house – to direct traffic during peak hours.
3. The Village Engineer must review and approve the final site plan, traffic circulation design, signage and plan of operations to minimize the danger from traffic conflicts.

SECTION 5: That all ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance shall be and the same is hereby repealed.

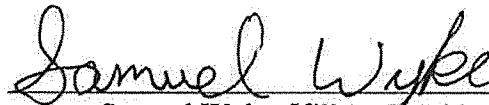
SECTION 6: That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 7: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PRESENTED and passed by the Board of Trustees on roll call vote on the 3rd day of September, 2015, with 6 members voting AYE, 0 voting NAY, and with 0 members absent; Village President Wyke voting -----; the Village Trustees voting as follows: Scheidt AYE, Cooling AYE, Lorenc AYE, Barnes, Pirc AYE, and Stadler AYE.


Robert Joutras, Village Clerk

APPROVED this 3rd day of September, 2015.


Samuel Wyke, Village President

ATTEST:


Robert Joutras, Village Clerk