

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
MAHOMET VALLEY WATER AUTHORITY,)	
CITY OF CHAMPAIGN, ILLINOIS, a municipal)	
corporation, DONALD R. GERARD,)	
CITY OF URBANA, ILLINOIS, a municipal corporation,)	
LAUREL LUNT PRUSSING,)	
CITY OF BLOOMINGTON, ILLINOIS,)	
a municipal corporation, COUNTY OF CHAMPAIGN,)	
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)	
TOWN OF NORMAL, ILLINOIS, a municipal)	
corporation, VILLAGE OF SAVOY, ILLINOIS,)	
a municipal corporation, and CITY OF DECATUR,)	
ILLINOIS, a municipal corporation,)	
)	
Complainants,)	
)	PCB 2013 - 022
)	
PEOPLE OF THE STATE OF ILLINOIS,)	(Enforcement – Land)
)	
Intervenor,)	
)	
)	
v.)	
)	
CLINTON LANDFILL, INC.,)	
an Illinois corporation,)	
)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: All Parties of Record

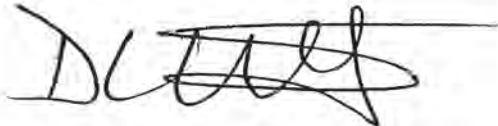
PLEASE TAKE NOTICE that on November 21, 2013, I filed the following documents electronically with the Clerk of the Pollution Control Board of the State of Illinois:

1. This Notice of Electronic Filing
2. Motion for Leave to File Reply to Respondent's Response and Supplemental Amicus Briefs in Opposition to Motion to Reconsider (with Reply attached).

Copies of the above-listed documents are being served upon you via U.S. Mail, First Class Postage Prepaid, sent on November 21, 2013, as is stated in the Certificate of Service appended hereto.

Respectfully submitted,

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF
DECATUR, ILLINOIS, a municipal corporation,
Complainants,



By: _____
David L. Wentworth II

David L. Wentworth II
David B. Wiest
Hasselberg Grebe Snodgrass Urban & Wentworth
124 SW Adams Street, Suite 360
Peoria, IL 61602-2321
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hgsuw.com
dwiest@hgsuw.com

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
MAHOMET VALLEY WATER AUTHORITY,)	
CITY OF CHAMPAIGN, ILLINOIS, a municipal)	
corporation, DONALD R. GERARD,)	
CITY OF URBANA, ILLINOIS, a municipal corporation,)	
LAUREL LUNT PRUSSING,)	
CITY OF BLOOMINGTON, ILLINOIS,)	
a municipal corporation, COUNTY OF CHAMPAIGN,)	
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)	
TOWN OF NORMAL, ILLINOIS, a municipal)	
corporation, VILLAGE OF SAVOY, ILLINOIS,)	
a municipal corporation, and CITY OF DECATUR,)	
ILLINOIS, a municipal corporation,)	
)	
Complainants,)	PCB 2013 - 022)
)	
PEOPLE OF THE STATE OF ILLINOIS,)	(Enforcement – Land)
)	
Intervenor,)	
)	
)	
v.)	
)	
CLINTON LANDFILL, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

**MOTION FOR LEAVE TO FILE REPLY
TO RESPONDENT'S RESPONSE AND SUPPLEMENTAL AMICUS
BRIEFS IN OPPOSITION TO MOTION TO RECONSIDER**

NOW COME the Complainants, MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation, DONALD R. GERARD,
CITY OF URBANA, ILLINOIS, a municipal corporation, LAUREL LUNT PRUSSING,
CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation, COUNTY OF
CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL,

ILLINOIS, a municipal corporation, VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, and CITY OF DECATUR, a municipal corporation, by and through their attorneys, Hasselberg Grebe Snodgrass Urban & Wentworth, and Albert Ettinger, and for their Motion for Leave to File Reply to Respondent's Response and Supplemental Amicus Briefs in Opposition to Motion to Reconsider, pursuant to 35 Ill. Adm. Code 101.500(e), respectfully state as follows:

1. On October 25, 2013, Complainants and the Intervenor filed their Motion to Reconsider portions of the September 19, 2013 Opinion and Order of the Board (hereinafter the "Board Order").

2. On November 7, 2013, Respondent, Clinton Landfill, Inc. ("CLI") filed its Response in Opposition to Motion to Reconsider ("Response"), in which CLI introduces new arguments for consideration by the Board. CLI also for the first time seeks reconsideration of the jurisdiction and standing findings in the Board Order, which Complainants have not had an opportunity to address.

3. On November 13, 2013, amicus party, the Village of Summit, Illinois ("Summit") filed its Motion for Leave to File Supplemental Amicus Brief in Response to Complainants' and Intervenor's Motion to Reconsider, attaching the Supplemental *Amicus* Brief of the Village of Summit, Illinois.

4. On November 15, 2013, amicus party, the National Solid Waste Management Association ("NSWMA") filed its Motion for Leave to File Supplemental Amicus Curiae Brief Responding to Motion to Reconsider, attaching NSWMA's Supplemental Amicus Curiae Brief Responding to Motion to Reconsider.

5. Complainants have prepared a Reply in support of their Motion to

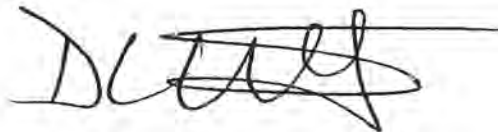
Reconsider responding to CLI's Response and the supplemental amicus briefs, which Reply is attached hereto.

6. Complainants respectfully submit that the filing of the attached Reply will prevent material prejudice and injustice. Although Complainants have no objection to the motions for leave to file supplemental *amicus curiae* briefs, Complainants oppose the arguments raised in the supplemental briefs as addressed and set forth in their Reply.

7. This motion is filed within fourteen (14) days after service of CLI's Response and the supplemental amicus briefs, in accordance with 35 Ill. Adm. Code 100.500(e).

WHEREFORE, the Complainants respectfully request that the Board or the hearing officer grant leave to file the attached Reply, direct the Clerk to file the attached Reply instanter, and for such other and further relief as the Board may deem just and proper and in the public interest.

Respectfully submitted,
MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF
DECATUR, ILLINOIS, a municipal corporation,
Complainants,



By: _____
David L. Wentworth II

David L. Wentworth II
David B. Wiest
Hasselberg Grebe Snodgrass Urban & Wentworth
124 SW Adams Street, Suite 360
Peoria, IL 61602-2321
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hgsuw.com
dwiest@hgsuw.com

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
MAHOMET VALLEY WATER AUTHORITY,)	
CITY OF CHAMPAIGN, ILLINOIS, a municipal)	
corporation, DONALD R. GERARD,)	
CITY OF URBANA, ILLINOIS, a municipal corporation,)	
LAUREL LUNT PRUSSING,)	
CITY OF BLOOMINGTON, ILLINOIS,)	
a municipal corporation, COUNTY OF CHAMPAIGN,)	
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)	
TOWN OF NORMAL, ILLINOIS, a municipal)	
corporation, VILLAGE OF SAVOY, ILLINOIS,)	
a municipal corporation, and CITY OF DECATUR,)	
ILLINOIS, a municipal corporation,)	
)	
Complainants,)	PCB 2013 - 022
)	
PEOPLE OF THE STATE OF ILLINOIS,)	(Enforcement – Land)
)	
Intervenor,)	
)	
v.)	
)	
CLINTON LANDFILL, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINANTS' REPLY
IN SUPPORT OF MOTION TO RECONSIDER
RESPONDING TO RESPONDENT'S RESPONSE AND
SUPPLEMENTAL AMICI CURIAE BRIEFS

NOW COME the Complainants, MAHOMET VALLEY WATER AUTHORITY, CITY OF CHAMPAIGN, ILLINOIS, a municipal corporation, DONALD R. GERARD, CITY OF URBANA, ILLINOIS, a municipal corporation, LAUREL LUNT PRUSSING, CITY OF BLOOMINGTON, ILLINOIS, a municipal corporation, COUNTY OF CHAMPAIGN, ILLINOIS, COUNTY OF PIATT, ILLINOIS, TOWN OF NORMAL,

ILLINOIS, a municipal corporation, VILLAGE OF SAVOY, ILLINOIS, a municipal corporation, and CITY OF DECATUR, a municipal corporation, by and through their attorneys, Hasselberg Grebe Snodgrass Urban & Wentworth, and Albert Ettinger, and for their Reply in Support of their Motion to Reconsider in response to Respondent, Clinton Landfill, Inc.'s ("CLI") Response in Opposition to Motion to Reconsider ("Response"), and in response to the Supplemental *Amicus* Brief of the Village of Summit, Illinois, and the National Solid Waste Management Association's ("NSWMA") Supplemental *Amicus Curiae* Brief Responding to Motion to Reconsider, respectfully state as follows:

I. CLI'S RESPONSE

CLI's Response begins by attempting to palm off host agreements and amendments to host agreements related to the Chemical Waste Unit ("CWU") as the equivalent of Section 39.2 local siting approval for the CWU by the DeWitt County Board. See Response, pp. 2, 8-9; and Exh. 3 to Response (2007 First Amendment to the original 2001 Host County Agreement). To the contrary, host agreements are no substitute for local siting authority, but rather only become a part of the record in a local siting hearing. 415 ILCS 5/39.2(e)(county board "host agreement with the local siting applicant . . . shall be disclosed. . ."). The purported "blessing of the DeWitt County Board" in the form of a provision of a host agreement amendment is a far cry from the nine (9) listed local siting criteria of Section 39.2(a). See Citizens' Complaint ("Complaint"), para. 84; 415 ILCS 5/39.2(a).

CLI next attempts to shift the focus of Section 39.2 to a county board, and asserts that the "onus is squarely placed on the siting authorities themselves to approve or disapprove those submissions." Response, p. 8. CLI forgets that *it had the obligation to*

make the initial filing of a siting application with the county board *to commence* Section 39.2 proceedings for the CWU. CLI strategically chose not to file a Section 39.2 application for the CWU with the DeWitt County Board. 415 ILCS 5/39.2(c)("applicant shall file a copy of its request with the county board . . . " (emphasis added)). CLI made no "submission" for the DeWitt County Board to approve or disapprove. CLI cannot take shelter behind a county board's Section 39.2 obligations if such a submission is never made.

CLI pushes its siting authority *onus* argument to the fullest by asserting that "on its face Section 39.2 imposes responsibilities on local siting authorities and *not on applicants* for local siting (see 415 ILCS §5/39.2)." Response, p. 11 (emphasis added). To the contrary, Section 39.2 of the Act is replete with duties and responsibilities of an *applicant* for siting a new pollution control facility. Indeed, it is an applicant that commences Section 39.2 proceedings in the first place. 415 ILCS 5/39.2(c). Further, the applicant's request must be submitted with sufficient details "to demonstrate compliance" with, among other provisions, Section 39.2(a)(ii)("the facility is so designed, *located* and proposed to be operated that the public health, safety and welfare will be protected")(emphasis added). No request was ever made by CLI to the DeWitt County Board to determine the suitability of the location of the CWU at Clinton Landfill No. 3. CLI's argument falls by its own weight and yet again reveals the stark differences between a provision of a host agreement and the requisite findings necessary for Section 39.2 local siting authority approval. As a matter of law, the former is no substitute for the latter.

The instant case does not seek review of the 2002 Application for local siting authority for the expansion of the municipal solid waste facility known as Clinton Landfill No. 3. Rather, the central claim of the Complaint is that the CWU came years after the 2002 Application and constitutes a new pollution control facility, and that Section 39.2 local siting authority for the CWU was required yet never obtained from the DeWitt County Board. The Complaint alleges this in Paragraphs 101 through 104. The 2002 Application excluded and self-prohibited a TSCA regulated CWU within Clinton Landfill No. 3. Complaint, ¶101. The 2002 Application did not request local siting approval for a CWU in Clinton Landfill No. 3. Complaint, ¶102. Since 2002, CLI has never filed a formal local-siting authority application with the DeWitt County Board pursuant to Section 39.2 for the CWU in Clinton Landfill No. 3. Complaint, ¶103. Finally, the DeWitt County Board has never been asked to give, and has never given, local siting approval for a CWU in Clinton Landfill No. 3. Complaint, ¶104. Notwithstanding the foregoing allegations in the Complaint, CLI paints the case as being about the 2002 Application and that the DeWitt County Board properly made Section 39.2 findings related to the 2002 Application. Response, pp. 12-13. To the contrary, CLI was required to submit and file a local siting authority application for the CWU, a new pollution control facility, with the DeWitt County Board - which at no time has CLI done. 415 ILCS 5/39.2(c).

Without express citation to authority but casually referencing Section 39(c) of the Act, CLI again alleges that if relief is granted to the Complainants, "then the *direct* effect of the Board's decision would be to invalidate the Agency's Permit." Response, p. 13 (emphasis in original). CLI is flat wrong and cannot cite to specific authority for this

proposition because there is none. The Board's own regulations expressly allow and provide for the Agency to modify (and not invalidate) a permit in consideration of an "order of the Board issued in an action brought pursuant to Title VIII . . ." 35 Ill. Adm. Code 813.201(b)(1)(C). The Board is not required to hold that the permit is void or invalid (and no such relief was requested in the Complaint). The regulation allows for the Agency to decide what steps it will take, if any, after the conclusion of this enforcement case. 35 Ill. Adm. Code 813.201(b)(1)(C).

CLI then resorts to circular reasoning, and actually argues against itself, by attempting to link Agency permit-issuance duties under Section 39(c) with the local siting authority requirements of Section 39.2 of the Act. Response, pp. 13-14. Local siting approval is an action of the DeWitt County Board, separate and independent from the permit-issuance duties of the Agency, in the exercise of the county board's concurrent jurisdiction over the location of new pollution control facilities. *City of Elgin v. County of Cook*, 169 Ill. 2d 53, 64 (1995)(SB 172 "made clear all units of local government . . . have concurrent jurisdiction with the Agency in approving siting, because section 39(c) now requires local government approval of all proposed pollution control facilities [in accordance with Section 39.2 of this Act]."); see also *Town & Country Utilities, Inc. v. Pollution Control Board*, 225 Ill. 2d 103, 108, 866 N.E.2d 227, 230 (2007)("all units of local government . . . have 'concurrent jurisdiction' with the Agency in approving siting, subject to the criteria in section 39.2.")(citing *City of Elgin*).

Throughout CLI's pleadings in this matter, it has held itself out as communicative with the DeWitt County Board regarding the CWU at Clinton Landfill No. 3. It has attached the First Amendment to Host County Agreement from 2007 to pleadings several

times, including to the Response as Exhibit 3. This document first amended paragraph 33 of the Host County Agreement to mention the CWU. CLI also prepared a Second Amendment to Host County Agreement from October 1, 2008, again amending Section 33 of the Host County Agreement regarding the CWU. None of the amendments address Section 39.2(a) criteria.

In the Board Order, the Board intimated that the DeWitt County Board may be an interested and necessary party to the proceedings. Board Order, p. 26. Recently, the DeWitt County Board apparently took that to heart, and on November 12, 2013, placed an item on the agenda for its November 14, 2013 meeting, that the DeWitt County Board believes that it has an interest in the outcome of the instant case, that Section 39.2 should be enforced, and that the DeWitt County Board believes the CWU requires siting authority from the DeWitt County Board ("CWU Resolution"). Attached hereto as Exhibit 1 is the DeWitt County Board Agenda dated November 12, 2013 for the November 14, 2013 meeting of the board.

After the CWU Resolution was placed on the DeWitt County Board agenda, CLI, by its legal counsel, sent a letter to the DeWitt County State's Attorney referencing the agenda item and paragraph 33 of the Second Amendment to Host County Agreement. Attached hereto as Exhibit 2 is the November 13, 2013 letter from legal counsel of CLI.

At the November 14, 2013 DeWitt County Board meeting, the CWU Resolution was passed and adopted. The CWU Resolution was filed with the Clerk of the Board the next day, on November 15, 2013, as public comment labeled as P.C.#1, a copy of which is attached hereto as Exhibit 3. The DeWitt County Board has taken a position on the CWU to protect its citizens, even in the face of an unknown future. See *Clinton Landfill*,

Inc. v. Mahomet Valley Water Authority, 406 Ill. App. 3d 374, 943 N.E.2d 725, 348 Ill. Dec. 117 (4th Dist. 2010).

II. CLI'S REQUEST FOR RECONSIDERATION OF JURISDICTION AND STANDING IN ITS RESPONSE IS UNTIMELY AND WITHOUT MERIT

The September 19, 2013 Board Order disposed of all pending matters. Pursuant to 35 Ill. Adm. Code 101.520(a), the deadline for the filing of a motion to reconsider by any party was October 28, 2013.¹ Complainants and the Intervenor timely filed their Motion to Reconsider on October 25, 2013.

CLI failed to file any motion to reconsider or post-trial motion on or before the deadline, and is now barred from doing so. Instead, on November 7, 2013, ten (10) days beyond the deadline, the CLI filed its Response. 35 Ill. Adm. Code 101.520(a). Despite being designated as a "response," CLI's pleading includes a motion to reconsider that demands that the Board reconsider its Board Order on jurisdiction and standing grounds.

The affirmative relief requested by CLI in its Response is untimely and the request should be denied. The time for filing a post-trial motion is not extended by the timely filing of a post-trial motion by another party. *Burnidge Corp. v. Stelford*, 309 Ill. App. 3d 576, 579, 723 N.E.2d 394, 396, 243 Ill. Dec. 362, 364 (2d Dist. 2000)(citing *Putz v. Schulte*, 104 Ill. App. 3d 128, 132, 432 N.E.2d 1070, 1073, 60 Ill. Dec. 171, 174 (5th Dist. 1982)). The fact that one party files a timely post-trial motion does not excuse the other party's obligation to file its own motion within the time limits. *Burnidge Corp.*,

¹ The Certified Mail Receipts of the Board Order were received by legal counsel for CLI and Complainants on the same date, September 23, 2013, and filed with the Clerk on September 25, 2013. Pursuant to 35 Ill. Adm. Code 101.300(d)(2), the date of the certified mail receipt is the date of service of the Board order. Thirty-five (35) days from September 23, 2013 is October 28, 2013. See also 35 Ill. Adm. Code 101.520(a)("within 35 days after the receipt of the order.")

309 Ill. App. 3d at 579; see also *Kim v. Alvey, Inc.*, 322 Ill. App. 3d 657, 665-66, 749 N.E.2d 368, 375, 255 Ill. Dec. 267, 274 (1st Dist. 2001)("Illinois law is clear that the fact that one party files a timely posttrial motion does not excuse another party's obligation to file its posttrial motion within" the applicable time period.)

The Motion to Reconsider should be granted and CLI's Motion to Dismiss be denied. In such an event, jurisdiction and standing are beyond dispute. Even if the Motion to Reconsider is not granted, the Board has jurisdiction of the instant enforcement action, and the Complainants have standing to bring it.

III. AMICI CURIAE BRIEFS

The Supplemental *Amicus* Brief of the Village of Summit, Illinois ("Summit Brief") and NSWMA's Supplemental Amicus Curiae Brief Responding to Motion to Reconsider ("NSWMA Brief") mimic each other by asserting that the Act should "ensure that local siting approvals and *Agency permits* become, at some point in time, final and unappealable." NSWMA Brief, p. 2 (emphasis added); see also Summit Brief, p. 3("ensure that local siting approvals and *Agency permits* become, at a definable and reliable point, final and non-appealable.")(emphasis added).

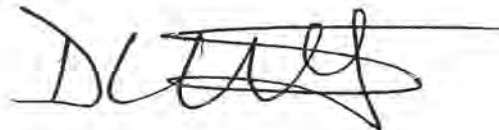
Summit and NSWMA's policy arguments fall on deaf ears in the context of the instant enforcement action. First, there was no local siting approval of the CWU by the DeWitt County Board. Second, the Complaint does not name the Agency and seeks no relief against the Agency issued permit. Third, and most significantly, Section 3.330(b)(3) of the Act is not limited to the *Agency*. CLI is requesting approval for the first time from the *USEPA* to dispose of TSCA regulated wastes in the CWU, approval

the Agency does not have the power to give. See Complaint, Count II; 415 ILCS 5/3.330(b)(3). To date, the TSCA application with USEPA is still pending. Complaint, ¶46.

WHEREFORE, the Complainants respectfully request that the Board reconsider its September 19, 2013 Opinion and Order, deny CLI's Motion to Dismiss and the relief it requests in its Response to the Motion to Reconsider, accept the case and authorize a hearing in this matter at which time Respondent will be required to answer the allegations contained in the Citizens' Complaint, and for such other and further relief as the Board may deem just and proper and in the public interest.

Respectfully submitted,

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF
DECATUR, ILLINOIS, a municipal corporation,
Complainants,



By: _____
David L. Wentworth II

David L. Wentworth II
David B. Wiest
Hasselberg Grebe Snodgrass Urban & Wentworth
124 SW Adams Street, Suite 360
Peoria, IL 61602-2321
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hgsuw.com
dwiest@hgsuw.com

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

CERTIFICATE OF SERVICE

The undersigned certifies that on November 21, 2013, the foregoing document (including the Notice of Electronic Filing, the Motion for Leave to File Reply to Respondent's Response and Supplemental Amicus Briefs in Opposition to Motion to Reconsider, and the Reply attached thereto) will be served upon each party to this case by enclosing a true copy of same in an envelope addressed to the attorney of record of each party or the party as listed below, with FIRST CLASS postage fully prepaid, and depositing each of said envelopes in the United States Mail in Peoria, Illinois at 5:00 p.m. on said date.

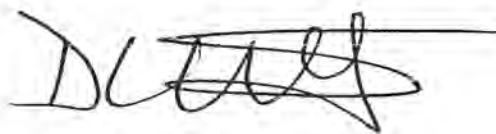
Thomas E. Davis, Bureau Chief
Environmental Bureau/Springfield
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

Tony Martig
Toxics Program Section Chief
USEPA Region 5 (Mail Code LC-8J)
77 W. Jackson Blvd.
Chicago, Illinois 60604-3507

Lisa Bonnett Director
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

James M. Morphew
Sorling, Northrup, Hanna, Cullen & Cochran, Ltd.
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, Illinois 62705

Michael S. Blazer, Esq.
Jeffery D. Jeep, Esq.
Jeep & Blazer, L.L.C.
24 N. Hillside Avenue, Suite A
Hillside, IL 60162



By: _____
David L. Wentworth II, Attorney

David L. Wentworth II
David B. Wiest
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hwgsb.com
dwiest@hwgsb.com

- DEWITT COUNTY BOARD AGENDA
NOVEMBER 14, 2013
7:00PM DEWITT COUNTY BOARD ROOM

Call to Order

Roll Call

Pledge and Invocation

Appointments:

Person to Speak Before the Board:

Jay Peterson and Jeff Webber to present quotes for renewal for Work comp, Liability risk management contract for 12-1-13 to 12-1-14.

Greg and Jacob Forrest on Marina and County issues.

Tom Jackson of Better Government for Dewitt County to address the Board on land fill issue.

Denise Torbert to address the board on land fill issue.

RESOLUTIONS:

COUNTY BOARD:

Motion to accept renewal for work comp, liability risk management contract.

Motion to pay all county bills.

Motion to approve county board minutes from October 10, 2013.

Motion to purchase 5 monitors at \$202.65 each for a total of 1013.25.

Motion to purchase 8 workstations at \$886.60 ea. for total of \$7092.80.

Motion to purchase imaging software for file servers \$4626.72 and 10 work stations for \$638.40.

Motion to identify Keith Koons as the contact for BWC.

Motion for a resolution requesting and directing DeWitt County States Attorney to prepare and file, correspondence on behalf of the DeWitt County Board, to the Illinois Pollution Control Board (IPCB) declaring

That the DeWitt County Board has an interest in the outcome of IPCB Case no. 2013-022 and requesting that 39.2 of the Illinois Environmental Protection act be fully enforced by the IPCB according to its terms, and Declaring to the IPCB that the DeWitt County Board believes the new Chemical waste unit at issue requires siting authority from the DeWitt County Board, pursuant to 415 ILCS 5/39.2. With this action being taken By Nov 22, 2013.



MARINA:

Motion to approve the transfer of 10% of FAB Associates, Inc. stock from Greg Forrest to Jacob Forrest effective January 1, 2014.

Discussion of question's presented to the States Attorney to respond to The description of duties, of what they mean and what the duties of the Lease are per the marina contract, and other questions on the list.

Discussion of requested documents to be presented to the county board From FAB at or before Nov 14, 2013 board meeting.

ANIMAL CONTROL DEPT:

Report on progress of animal shelter project from Pete.

EMA DEPT:

No recommendations

HIGHWAY DEPT:

Placed on file.

Motion to approve revised contract proposal for cleaning service with Glenda Bunn.

Motion to approve annual maintenance contract for copier with Watts.

Motion to approve Viscon quote to replace computer on HP815mfp Large format plotter scanner.

Motion for sale or other disposal of 2003 Impala

SHERIFF DEPT:

No recommendations

MAINTENANCE DEPT:

ZONING DEPT:

EXECUTIVE SESSION:

OLD AND NEW BUSINESS:

For discussion: Transparency update

Posted by Dana Smith @4:20pm November 12, 2013

ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.

ATTORNEYS AT LAW

JOHN S. ELIAS
BRIAN J. MEGINNES
ROBERT M. RIFFLE
MICHAEL R. SEGHETTI
TROY N. PUDIK

416 MAIN STREET, SUITE 1400
PEORIA, ILLINOIS 61602-1611
TELEPHONE: (309) 637-6000
FACSIMILE: (309) 637-8514
www.emrslaw.com

DAVID N. SCHELLENBERG
JANAKI NAIR
LANE G. ALSTER
CYNTHIA L. ELIAS, OF COUNSEL

05591-077

November 13, 2013

VIA EMAIL: kkoritz@dewittcountyill.com

Karle Koritz, Esq.
State's Attorney
DeWitt County Building
201 W. Washington
Clinton, Illinois 61727

Re: Host County Agreement effective April 20, 2001, by and between Clinton Landfill, Inc. and County of DeWitt, Illinois, as amended by First Amendment to Host County Agreement effective August 24, 2007, as amended by Second Amendment to Host County Agreement effective October 1, 2008 (collectively, the "Host County Agreement")

Dear Mr. Koritz:

This Firm represents Clinton Landfill, Inc. ("CLI"). It has come to our attention that the DeWitt County Board will consider at its upcoming meeting the adoption of the following resolution:

Resolution requesting and directing DeWitt County State's Attorney to prepare and file, correspondence on behalf of the DeWitt County Board, to the Illinois Pollution Control Board (IPCB) declaring that the DeWitt County Board has an interest in the outcome of IPCB Case No. 2013-022 and requesting that 39.2 of the Illinois Environmental Protection Act be fully enforced by the IPCB according to its terms, and declaring to the IPCB that the DeWitt County Board believes the new chemical waste unit at issue requires siting authority from the DeWitt County Board, pursuant to 415 ILCS 5/39.2. With this action being taken by November 22, 2013.



Karle Koritz, Esq.
State's Attorney
November 13, 2013
Page 2 of 3

Please be advised that if the DeWitt County Board were to adopt the proposed resolution, CLI would consider same to be a breach of Section 33 of the Host County Agreement.

Section 33 of the Host County Agreement provides as follows:

33. CHEMICAL WASTE LANDFILL

The County supports CLI in its endeavors to provide safe and secure landfill disposal services at its Clinton Landfill No. 3 facility. Furthermore, the County recognizes that evaluating the protectiveness of the Chemical Waste Landfill permit application prepared by CLI involves highly technical, multi-disciplinary analysis, and such analysis is best performed by the Illinois Environmental Protection Agency and the United States Environmental Protection Agency. As a result, the County neither supports nor opposes the permitting, development, construction, and operation of the Chemical Waste Landfill proposed by CLI at Clinton Landfill No. 3

When the DeWitt County Board approved the Second Amendment to the Host County Agreement, it was clearly understood that Section 33 of the Host County Agreement only requires the DeWitt County Board to remain neutral and allow the permitting decisions to be based on science by the appropriate agencies. We believe this is still the appropriate position for the DeWitt County Board to take. The proposed breach would put at risk the host fees currently being paid by CLI to DeWitt County and might subject DeWitt County to a suit for lost profit damages in the event that CLI does not receive USEPA Approval for the Chemical Waste Unit. In addition, CLI would need to re-evaluate its overall relationship with the DeWitt County Board.

CLI plays a significant role in the economy of DeWitt County. CLI and its parent company, Area Disposal Service, Inc., employ over 100 employees at the landfill and truck terminal located near Clinton, Illinois. The total payroll in DeWitt County for the past three years is over \$10 Million Dollars. It should also be noted that CLI and Area Disposal Service, Inc. have spent over \$2.5 million dollars this year with local vendors. Both companies make significant charitable contributions in DeWitt County, both in-kind and in cash.

Karle Koritz, Esq.
State's Attorney
November 13, 2013
Page 3 of 3

If you have any questions, please call me.

Very truly yours,

A handwritten signature in cursive script that reads "Brian Meginnes".

Brian J. Meginnes

BJM/vsp
113-1760

cc: DeWitt County Board c/o DeWitt County Clerk
Christopher R. Coulter (via email)
Janaki Nair, Esq. (via email)

From: Bill S
To: Brown, Don
Subject: Dewitt County Board Resolution IPCB case no. 2013-022
Date: Friday, November 15, 2013 11:01:13 AM
Attachments: CTY BRD RESOLUTION 11-14-2013.PDF

Don... I would like this included in the case file for IPCB case no. 2013-022.

If any problems please inform.

Thank you Bill Spencer
President WATCH



RESOLUTION NO. 2013--

A resolution requesting and directing Dewitt County States Attorney to prepare and file, correspondence on behalf of the Dewitt County Board , to the Illinois Pollution Control Board (IPCB) declaring that the Dewitt County Board has an interest in the outcome of IPCB case no. 2013-022; and Requesting that 39.2 of the Il Environmental Protection act be fully enforced by the IPCB according to its terms: and declaring to the IPCB that the Dewitt County Board believes the new Chemical Waste Unit at issue requires siting authority from the Dewitt County Board, pursuant to 415 ILCS 5/39.2.

WHEREAS, the Dewitt County Board has concerns regarding Clinton Landfill #3; and

WHEREAS, the Dewitt County Board deems it in the best interests of the County and the health, safety and welfare of its citizens to send correspondence to the clerk of the IPCB in case no. 2013-022. expressing the County Board's concerns.

NOW THEREFORE, BE IT RESOLVED BY THE DEWITT COUNTY BOARD, OF DEWITT COUNTY, that:

- A. The Dewitt County States Attorney is requested and directed to prepare and file forthwith correspondence on behalf of the Dewitt County Board in IPCB case no 2013-022 addressed to: John Therriault, clerk, Illinois Pollution Control Board, 100 West Randolph Street, James R Thompson Center, Suite 11-500, Chicago, Il 60601-3218 and
- B. Acknowledging that the Dewitt County Board has a duty to take and order suitable and proper measures for the protection of the Dewitt County Board, Dewitt County and its citizens in the IPCB case no 2013-022: and

- C. Declaring that the Dewitt County Board has an interest that may be affected by a decision of the IPCB case no. 2013-022: and
- D. Requesting that section 39.2 of the Il Environmental Protection act (415 ILCS 5/39.2) be fully enforced by the IPCB according to its terms, no more and no less: and
- E. Declaring to the IPCB that the Dewitt County Board believes the new Chemical Waste Unit at issue in the IPCB case no 2013-022 requires local siting authority from the Dewitt County Board pursuant to 415 ILCS 5 /39.2.

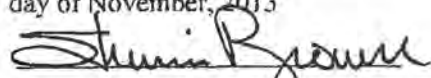
Be it further resolved that the County Boards Attorney is requested and directed to take such further action as may be necessary to effectuate this resolution.

Pursuant to vote of the members of the Dewitt County Board the vote for passage of this resolution is as follows:

By ayes and Naves

Ballenger	<u>NO</u>	Pruser	<u>NO</u>
Brown	<u>YES</u>	Redman	<u>NO</u>
Daugherty	<u>YES</u>	Savage	<u>YES</u>
Hoffman	<u>YES</u>	Tucker	<u>YES</u>
Koons	<u>YES</u>	Whitted	<u>NO</u>
Newburg	<u>NO</u>	Wissmiller	<u>YES</u>

The voting being 7 Ayes and 5 Naves and the vote having met the required majority of the county board members holding office is declared passed this 14th day of November, 2013



Sherrie Brown, County Board Chairperson

ATTEST:



Dana Smith, County Clerk

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
MAHOMET VALLEY WATER AUTHORITY,)
CITY OF CHAMPAIGN, ILLINOIS, a municipal)
corporation, DONALD R. GERARD,)
CITY OF URBANA, ILLINOIS, a municipal corporation,)
LAUREL LUNT PRUSSING,)
CITY OF BLOOMINGTON, ILLINOIS,)
a municipal corporation, COUNTY OF CHAMPAIGN,)
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)
TOWN OF NORMAL, ILLINOIS, a municipal)
corporation, VILLAGE OF SAVOY, ILLINOIS,)
a municipal corporation, and CITY OF DECATUR,)
ILLINOIS, a municipal corporation,)
)
Complainants,)
)
)
PCB 2013 - 022
)
PEOPLE OF THE STATE OF ILLINOIS,)
)
)
(Enforcement – Land)
)
Intervenor,)
)
)
v.)
)
)
CLINTON LANDFILL, INC.,)
an Illinois corporation,)
)
)
Respondent.)

NOTICE OF ELECTRONIC FILING

TO: All Parties of Record

PLEASE TAKE NOTICE that on November 21, 2013, I filed the following documents electronically with the Clerk of the Pollution Control Board of the State of Illinois:

1. This Notice of Electronic Filing
2. Supplemental Certificate of Service (relative to the Motion for Leave to File Reply to Respondent's Response and Supplemental Amicus Briefs in Opposition to Motion to Reconsider (with Reply attached))*.

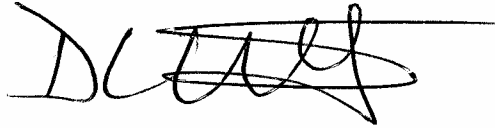
Electronic Filing - Received, Clerk's Office : 11/21/2013

Copies of the above-listed documents are being served upon you via U.S. Mail, First Class Postage Prepaid, sent on November 21, 2013, as is stated in the Certificate of Service appended hereto.

* The original Certificate of Service neglected to include counsel for the Respondent.

Respectfully submitted,

MAHOMET VALLEY WATER AUTHORITY,
CITY OF CHAMPAIGN, ILLINOIS, a municipal
corporation, DONALD R. GERARD, CITY OF
URBANA, ILLINOIS, a municipal corporation,
LAUREL LUNT PRUSSING, CITY OF
BLOOMINGTON, ILLINOIS, a municipal
corporation, COUNTY OF CHAMPAIGN,
ILLINOIS, COUNTY OF PIATT, ILLINOIS,
TOWN OF NORMAL, ILLINOIS, a municipal
corporation, VILLAGE OF SAVOY, ILLINOIS,
a municipal corporation, and CITY OF
DECATUR, ILLINOIS, a municipal corporation,
Complainants,



By: _____

David L. Wentworth II

David L. Wentworth II
David B. Wiest
Hasselberg Grebe Snodgrass Urban & Wentworth
124 SW Adams Street, Suite 360
Peoria, IL 61602-2321
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hgsuw.com
dwiest@hgsuw.com

Albert Ettinger
53 W. Jackson Street, Suite 1664
Chicago, IL 60604
Telephone: (773) 818-4825

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
MAHOMET VALLEY WATER AUTHORITY,)
CITY OF CHAMPAIGN, ILLINOIS, a municipal)
corporation, DONALD R. GERARD,)
CITY OF URBANA, ILLINOIS, a municipal corporation,)
LAUREL LUNT PRUSSING,)
CITY OF BLOOMINGTON, ILLINOIS,)
a municipal corporation, COUNTY OF CHAMPAIGN,)
ILLINOIS, COUNTY OF PIATT, ILLINOIS,)
TOWN OF NORMAL, ILLINOIS, a municipal)
corporation, VILLAGE OF SAVOY, ILLINOIS,)
a municipal corporation, and CITY OF DECATUR,)
ILLINOIS, a municipal corporation,)
)
Complainants,)
)
)
PCB 2013 - 022
)
)
PEOPLE OF THE STATE OF ILLINOIS,)
)
)
(Enforcement – Land)
)
Intervenor,)
)
)
)
v.)
)
)
CLINTON LANDFILL, INC.,)
an Illinois corporation,)
)
)
Respondent.)

SUPPLEMENTAL CERTIFICATE OF SERVICE

The undersigned certifies that on November 21, 2013, the foregoing document (including the Notice of Electronic Filing, the Motion for Leave to File Reply to Respondent's Response and Supplemental Amicus Briefs in Opposition to Motion to Reconsider, and the Reply attached thereto) will be served upon each party to this case by enclosing a true copy of same in an envelope addressed to the attorney of record of each party or the party as listed below, with FIRST CLASS postage fully prepaid, and depositing each of said envelopes in the United States Mail in Peoria, Illinois at 5:00 p.m. on said date.

Brian J. Meginnes, Esq.
Janaki Nair, Esq.
Elias, Meginnes, Riffle & Seghetti, P.C.
416 Main Street, Suite 1400
Peoria, IL 61602

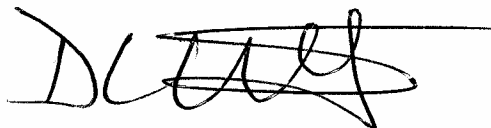
Thomas E. Davis, Bureau Chief
Environmental Bureau/Springfield
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

Tony Martig
Toxics Program Section Chief
USEPA Region 5 (Mail Code LC-8J)
77 W. Jackson Blvd.
Chicago, Illinois 60604-3507

Lisa Bonnett Director
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

James M. Morphew
Sorling, Northrup, Hanna, Cullen & Cochran, Ltd.
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, Illinois 62705

Michael S. Blazer, Esq.
Jeffery D. Jeep, Esq.
Jeep & Blazer, L.L.C.
24 N. Hillside Avenue, Suite A
Hillside, IL 60162



By: _____
David L. Wentworth II, Attorney

David L. Wentworth II
David B. Wiest
Hasselberg, Williams, Grebe,
Snodgrass & Birdsall
124 SW Adams Street, Suite 360
Peoria, IL 61602-1320
Telephone: (309) 637-1400
Facsimile: (309) 637-1500
dwentworth@hwgsb.com
dwiest@hwgsb.com