

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ENVIRONMENTAL RECYCLING)
AND DISPOSAL SERVICES, INC.)

Petitioner,)

v.)

PCB No. _____

WILL COUNTY, ILLINOIS,)

WILL COUNTY BOARD,)

WASTE MANAGEMENT OF)

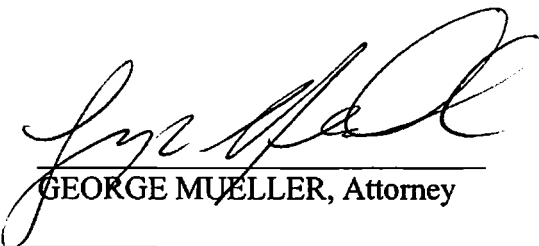
ILLINOIS, INC.)

Respondents.)

NOTICE OF FILING

TO: Please see attached Service List.

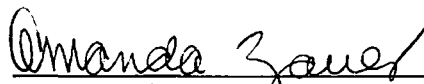
PLEASE TAKE NOTICE that on the **19th day of January, 2016**, before the hour 5:00pm, I electronically filed with the Pollution Control Board, **Petition for Review of Decision of the Will County Board of Will County, Illinois**, a true and correct copy of which is attached hereto and herewith served upon you.

BY: 

GEORGE MUELLER, Attorney

CERTIFICATE OF SERVICE

This is to certify that the aforementioned Notice of Filing and Petition was forwarded this 19th day of January, 2016, to the aforementioned person(s) by electronic mail and by depositing the same in a mailbox in Ottawa, Illinois, before 5:00 p.m., addressed as indicated on the service list attached, with proper first-class postage affixed thereon.



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ENVIRONMENTAL RECYCLING AND DISPOSAL SERVICES, LLC

SERVICE LIST

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ENVIRONMENTAL RECYCLING)
AND DISPOSAL SERVICES, INC.)
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WILL COUNTY, ILLINOIS,)
WILL COUNTY BOARD,)
WASTE MANAGEMENT OF)
ILLINOIS, INC.)
))
Respondents.)

PCB No. _____

PETITION FOR REVIEW OF DECISION OF THE WILL COUNTY BOARD OF WILL COUNTY, ILLINOIS

NOW COMES the Petitioner, Environmental Recycling and Disposal Services, Inc., by its attorneys, Mueller Anderson & Associates, and hereby petitions the Illinois Pollution Control Board (“PCB”) to review the decision of the County Board of Will County, Illinois (“County Board”) granting site location approval to Waste Management of Illinois, Inc. (“WMII” or “Applicant”) for site location approval for expansion of the Laraway Recycling and Disposal facility, located in Will County, Illinois. In support hereof ERDS states as follows:

1. This Petition is filed pursuant to Section 40.1 of the Illinois Environmental Protection Act, 415 ILCS 5/40.1 (“Act”), in accordance with Sections 107.200 through 107.208 of the PCB procedural rules, 35 Ill. Admin. Code §§ 107.200-.208.
2. On July 10, 2015, WMII filed an application for siting approval (“application”) with Will County Illinois, requesting approval for expansion of the Laraway Recycling and Disposal Facility located in Will County, Illinois.
3. Public hearings on the application were held in October of 2015.

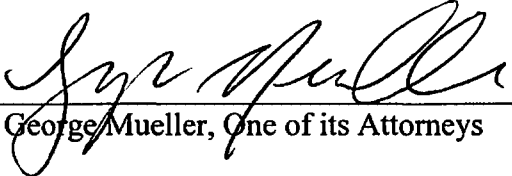
4. ERDS appeared and participated in the public hearings, filing motions, cross-examining witnesses and submitting proposed findings. ERDS owns and operates a waste hauling company in Will County, Illinois and ERDS has local siting approval for a solid waste transfer station in Rockdale, Illinois, located in close proximity to the Laraway Recycling and Disposal facility. ERDS has vehicles that operate on the same roadway network that will be impacted by the expansion of the Laraway Recycling and Disposal facility.
5. On December 17, 2015, the Will County Board conditionally approved the application. A copy of the resolution of the County Board granting such conditional approval is attached hereto and made a part hereof as Exhibit A.
6. On the first date of the public hearing on the application, ERDS filed a Motion to Dismiss and Disqualify, alleging that bias and prejudice on the part of the Will County Board and Will County Solid Waste and Land Planning staffs made a fundamentally fair hearing impossible. Accordingly, ERDS timely made and preserved fundamental fairness arguments based upon prejudice and bias.
7. The proceedings before the Will County Board on the application were fundamentally unfair, in that the Will County Board prejudged the application, Will County Solid Waste Planning and Land Use Planning staffs had improper ex parte contact with the Applicant and improperly influenced the Will County Board. The Will County Board was biased in favor of the Applicant and did not render an impartial decision based upon the evidence.
8. The County Board's conditional approval in the manner employed by the County Board is not authorized by Section 39.2 of the Act.
9. The County Board's decision was against the manifest weight of the evidence and as to statutory siting criteria i (need), ii (public health, safety and welfare) and vi (traffic).

WHEREFORE, ERDS requests that PCB enter an order:

- a. Setting for a hearing this contest of the County Board's siting decision,
- b. Reversing the County Board's siting approval decision, and
- c. Providing such other and further relief as the Board deems appropriate.

Respectfully submitted,

On behalf of ENVIRONMENTAL RECYCLING
AND DISPOSAL SERVICES, LLC

By: 
George Mueller, One of its Attorneys

Dated: January 19, 2016

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**RESOLUTION OF THE COUNTY BOARD
WILL COUNTY, ILLINOIS**

Pursuant to Section VIII (E.) and (F.) of the Will County Pollution Control Facility Siting Ordinance, issue the Report and Recommendation of the Committee to the Will County Board concerning the Application of Waste Management of Illinois for Site Location Approval for Expansion of the Laraway Recycling and Disposal Facility

WHEREAS, on or about January 19, 2006, the Will County Board adopted the current version of the Will County Pollution Control Facility Siting Ordinance, and

WHEREAS, on or about the 10th day of July, 2015, Waste Management of Illinois, Inc. filed its application for site location approval for expansion of the Laraway Recycling and Disposal Facility with the Will County Clerk, and

WHEREAS, a public hearing as required by the Will County Pollution Control Facility Siting Ordinance, as well as the State Siting Statute (415 ILCS 5/39.2(d)), was held on such application in October, 2015, and

WHEREAS, the post-hearing public comment period relating to such request for site location approval has now ended, and the record has been closed in this matter, and

WHEREAS, subsequent to the close of the post-hearing public comment period, herein, all Participants in the public hearing held with respect to this Application submitted certain proposed Findings of Fact, Conclusions of Law and Recommendations; and

WHEREAS, subsequent thereto Larry M. Clark, the Hearing Officer duly appointed by the Will County Board in the above matter rendered his final Findings and Recommendations; and

WHEREAS, after a review of the entire record made in this matter (including the Hearing Officer's Findings and Recommendations), the Will County Pollution Control Facility Committee met in open session on December 10, 2015, and recommended that site location approval be granted for expansion of this pollution control facility subject to certain special conditions recommended by the Committee.

NOW, THEREFORE, BE IT RESOLVED, after review of the Application, all testimony, all exhibits, the hearing record as a whole, all public comments, the proposed Findings of Fact, Conclusions of Law, Conditions and Recommendations submitted by various parties herein, the record of this proceeding as a whole, and after considering all relevant and applicable factors and matters, as well as the Hearing Officer's Findings and Recommendations, and the Pollution Control Facility Committee's Decision and Recommendations, the Will County Board finds that the Pollution Control Facility Committee's Decision and Recommendation should be adopted, and, accordingly, further finds as follows:

BE IT FURTHER RESOLVED, that the Preamble of this Resolution is hereby adopted as if



fully set herein. This Resolution shall be in full force and effect upon its passage and approval as provided by law.

The Board has jurisdiction to rule on the Application of Waste Management of Illinois, Inc. for siting approval of a pollution control facility based upon the Applicant's proper notification as provided by Section 39.2 of the Illinois Environmental Protection Act and the Will County Ordinance as they pertain to persons and entities that appear on the authentic tax records of County of Will, as well as such other notice requirements set forth in these statutory provisions.

Aye 25
Nay 0
Abstain 1

CRITERION 1: THE FACILITY IS NECESSARY TO ACCOMMODATE THE WASTE NEEDS OF THE AREA IT IS INTENDED TO SERVE.

The Applicant has demonstrated compliance with Criterion 1:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 1): (None).

CRITERION 2: THE FACILITY IS SO DESIGNED, LOCATED AND PROPOSED TO BE OPERATED THAT THE PUBLIC HEALTH, SAFETY AND WELFARE WILL BE PROTECTED.

The Applicant has demonstrated compliance with Criterion 2:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 2): The Will County Board further finds that certain conditions should be imposed as being reasonable and necessary to accomplish the purposes of Section 39.2 of the Illinois Environmental Protection Act (the "Act"), and that such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (the "Board") concerning this type of pollution control facility: (See Attachment "A").

CRITERION 3: THE FACILITY IS LOCATED SO AS TO MINIMIZE INCOMPATIBILITY WITH THE CHARACTER OF THE SURROUNDING AREA AND TO MINIMIZE THE EFFECT ON THE

VALUE OF THE SURROUNDING PROPERTY.

The Applicant has demonstrated compliance with Criterion 3:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 3): The Will County Board further finds that certain conditions should be imposed as being reasonable and necessary to accomplish the purposes of Section 39.2 of the Illinois Environmental Protection Act (the "Act"), and that such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (the "Board") concerning this type of pollution control facility: (See Attachment "A").

CRITERION 4: THE FACILITY IS LOCATED OUTSIDE THE BOUNDARY OF THE 100-YEAR FLOOD PLAIN OR THE SITE IS FLOOD-PROOFED.

The Applicant has demonstrated compliance with Criterion 4:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 4): (None).

CRITERION 5: THE PLAN OF OPERATIONS FOR THE FACILITY IS DESIGNED TO MINIMIZE THE DANGER TO THE SURROUNDING AREA FROM FIRE, SPILLS, OR OTHER OPERATIONAL ACCIDENTS.

The Applicant has demonstrated compliance with Criterion 5:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 5): (None).

CRITERION 6: THE TRAFFIC PATTERNS TO OR FROM THE FACILITY ARE SO DESIGNED AS TO MINIMIZE THE IMPACT ON EXISTING TRAFFIC FLOWS.

The Applicant has demonstrated compliance with Criterion 6:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 6): The Will County Board further finds that certain conditions should be imposed as being reasonable and necessary to accomplish the purposes of Section 39.2 of the Illinois Environmental Protection Act (the "Act"), and that such conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (the "Board") concerning this type of pollution control facility: (See Attachment "A").

CRITERION 7: IF THE FACILITY WILL BE TREATING, STORING OR DISPOSING OF HAZARDOUS WASTE, AN EMERGENCY RESPONSE PLAN EXISTS FOR THE FACILITY WHICH INCLUDES NOTIFICATION, CONTAINMENT, AND EVACUATION PROCEDURES TO BE USED IN CASE OF AN ACCIDENTAL RELEASE.

The Applicant has demonstrated compliance with Criterion 7:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 7): (None).

CRITERION 8: IF 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 THE SOLID WASTE PLANNING AND RECYCLING ACT, THE FACILITY IS CONSISTENT WITH THAT PLAN.

The Applicant has demonstrated compliance with Criterion 8:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 8): (None).

CRITERION 9: IF THE FACILITY WILL BE LOCATED WITHIN A REGULATED RECHARGE AREA, ANY APPLICABLE REQUIREMENTS SPECIFIED BY THE BOARD FOR SUCH AREAS HAVE BEEN MET.

The Applicant has demonstrated compliance with Criterion 9:

Aye 25
Nay 0
Abstain 1

(Conditions attached to Criterion 9): (None).

GENERAL CONDITION

A general condition should be imposed which is reasonable and necessary to accomplish the purposes of Section 39.2 of the Illinois Environmental Protection Act (the "Act"), and which is not inconsistent with regulations promulgated by the Illinois Pollution Control Board (the "Board") concerning this type of pollution control facility (See Attachment "A").

Aye 25
Nay 0
Abstain 1

GRANTING OF LOCAL SITING APPROVAL

Local Siting Approval is granted for Application.

Aye 25
Nay 0
Abstain 1

NOW THEREFORE, BE IT RESOLVED, by the Will County Board, that based upon its findings on these nine criteria, the County Board hereby:

Approves the Application for local siting approval.

BE IT FURTHER RESOLVED, that this Resolution becomes effective immediately upon the adoption thereof.

PRESENTED to the Will County Board on the 17th day of December, 2015.

Adopted by the Will County Board this 17th day of December, 2015.

AYES:	Howard, Ogalla, Moustis, Singer, Moran, Rice, Harris, Traynere, Bennefield, Fritz, Gould, Balich, Fricilone, Brooks Jr., Winfrey, Parker, Staley-Ferry, Babich, Wilhelmi, Hart, Maher, Tuminello, Weigel, Collins, Ferry
ABSTAIN:	Freitag

Result: Approved - [Unanimous]

Nancy Schultz Voots
 Nancy Schultz Voots (SEAL)
 Will County Clerk

Approved this 21st day of December, 2015.

Lawrence M. Walsh
 Lawrence M. Walsh
 Will County Executive