

ILLINOIS POLLUTION CONTROL BOARD

ENVIRONMENTAL RECYCLING AND	)	
DISPOSAL SERVICES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 16-76
	)	(Third-Party Pollution Control Facility
WILL COUNTY, ILLINOIS, WILL COUNTY	)	Siting Appeal)
BOARD, AND WASTE MANAGEMENT OF	)	
ILLINOIS, INC.,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

PLEASE TAKE NOTICE that on the 19<sup>th</sup> day of August, 2016, Respondent, Will County, Illinois and Will County Board, filed their Opening Brief, a copy of which is attached hereto and served upon you.

/s/Charles F. Helsten  
 Charles F. Helsten  
 Attorney for Respondent, Will County,  
 Illinois

**PROOF OF SERVICE**

Under the penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that this notice of filing and copy of the Opening Brief were served upon the parties referenced on the attached service list via email prior to 5 p.m. on the 19<sup>th</sup> day of August, 2016.

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**OPENING BRIEF OF WILL COUNTY AND WILL COUNTY BOARD.**

NOW COME Respondents, WILL COUNTY, ILLINOIS, and the WILL COUNTY BOARD, (hereafter, the "County") by and through their attorneys of record, HINSHAW & CULBERTSON LLP, and for their Opening Brief in the above-captioned matter state as follows:

**I. BACKGROUND**

On July 10, 2015, Waste Management of Illinois, Inc. ("WMI") filed its Application for Site Location Approval (the "Application") for expansion of the Laraway Recycling and Disposal Facility (the "Facility") with the Will County Board pursuant to Section 39.2 of the Illinois Environmental Protection Act (the "Act"). 415 ILCS 5/39.2. Pursuant to Section 39.2(d) of the Act, as well as relevant provisions of the Will County Pollution Control Facility Siting Ordinance, the Will County Board held public hearings on the Application on October 10, October 14, and October 21, 2015. At the public hearings, WMI presented seven witnesses who testified regarding the seven relevant<sup>1</sup> statutory criteria set forth in Section 39.2. No party or member of the public presented any witnesses in opposition to the Application. At the conclusion of this hearing, the Hearing Officer issued Findings and Recommendations in which

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<sup>1</sup> There are nine statutory criteria in 415 ILCS 5/39.2. However, Criteria VII and IX are applicable only if the facility 1) proposes to accept hazardous waste, and 2) is located within a regulated recharge area, respectively. Neither of these criteria is applicable to the Laraway expansion.

he found that WMI had met its burden as to each of the relevant statutory criteria. Hearing Officer Findings and Recommendations at 12 (attached hereto as Exhibit A).

On December 10, 2015, the Will County Pollution Control Facility Committee (the "Committee"), recommended that WMI's Application be granted with certain special conditions, as follows:

With the deletion/excising of proposed Special Condition 5(d), and, in addition, the modification of Special Conditions 3(b) and 4(c) in the manner noted above, the Committee recommends that the Will County Board adopt in its entirety the December 10, 2015 Findings and Recommendations of the Hearing Officer and, subject to the other Special Conditions contained therein, grant site location approval for the expansion of the Laraway Recycling and Disposal Facility as proposed by Waste Management of Illinois, Inc. in the Application filed with the Will County Board on July 10, 2015.

The basis for the Committee's recommendation to the full County Board is:

1. The Application filed herein,
2. The testimony and other proofs received during the course of the public hearing conducted on this Application;
3. The record of the siting proceeding as a whole; and
4. The Hearing Officer's December 10, 2015 Findings and Recommendations.

Decision and Recommendation of Pollution Control Facility Committee at 2-3 (attached hereto as Exhibit B).

On December 17, 2015, the Will County Board approved the Committee's decision and recommendations and granted site location approval by a vote of twenty-five (25) in favor, none opposed, and one abstention. Resolution 15-380 states:

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 [Committee's] Decision and Recommendation should be adopted, and, accordingly, further finds [that each of the statutory criteria was met]. Will County Bd. Res. 15-380 (attached hereto as Exhibit C).

On January 19, 2016, Petitioner Environmental Recycling and Disposal Services, Inc. ("ERDS") filed a Petition for Review of that siting approval. In its Petition, ERDS alleged that the siting proceedings before the Will County Board were fundamentally unfair and against the manifest weight of the evidence. On June 16, ERDS filed an Amended Petition, dropping the fundamental fairness claim and alleging only that "[t]he County Board's conditional approval in the manner employed by the County board did not authorize Section 39.2 of the Act," and that the "County Board's decision was against the manifest weight of the evidence and [sic] as to criterion i (need), ii (public health, safety and welfare) and vi (traffic)." Am. Pet. ¶¶ 6,7.

ERDS conducted limited written discovery, and on July 27, 2016, a hearing was held at which no witnesses were presented and no oral argument was made. As a result, the County submits this Opening Brief without the benefit of elucidation from the Petitioner of the basis of its claims. Particularly with respect to Paragraph 6 of the Amended Petition, it is unclear what deficiency Petitioner might be alleging. Nonetheless, this Opening Brief will summarize the evidence presented regarding the contested statutory criteria (I, II, and VI), from which it is clear that the County's decision was not against the manifest weight of the evidence.

## **II. LEGAL STANDARD**

The procedures and criteria for siting a pollution control facility are set forth in 415 ILCS 5/39.2. Section 39.2 articulates the statutory criteria that must be evaluated by the siting authority. This Brief only discusses the three Criteria challenged by Petitioner. Criterion I requires the siting authority to find that "the facility is necessary to accommodate the waste needs of the area it is intended to serve." Criterion II requires a determination by the siting

authority that "the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected." Finally, Criterion VI mandates that "the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows." 415 ILCS 5/39.2(a)(i), (ii), (vi).

The standard of review on appeal of a siting authority's decision regarding the statutory criteria is well established. On appeal by a third party petitioner of a grant of siting approval, "[t]he burden of proof shall be on the petitioner." 415 ILCS 5/40.1(b); *Fox Moraine, LLC v. United City of Yorkville*, 2011 IL App (2d) 100017, ¶ 57 (2011). In reviewing the siting authority's decision, the PCB must consider the County Board's written decision and reasons therefor, the siting hearing transcript, and the fundamental fairness of the siting proceeding. 415 ILCS 5/40.1(a); *Fox Moraine*, 2011 IL App (2d) 100017, at ¶ 57. A siting authority's decision will be overturned only if it is against the manifest weight of the evidence. *Fox Moraine, LLC*, 2011 IL App (2d) 100017, ¶ 88; *Tate v. IPCB*, 188 Ill. App. 3d 994, 1022, 544 N.E.2d 1176 (4th Dist. 1989). "A decision is against the manifest weight of the evidence if the opposite result is clearly evident, plain, or indisputable from a review of the evidence." *Tate*, 188 Ill. App. 3d at 1022. "The question in this appeal is not whether a ruling in favor of the [petitioner] is a more reasonable conclusion based on the evidence presented. Rather, the only question is whether it is clearly evident from the record that the [siting authority should have denied the siting application]." *Peoria Disposal Co. v. PCB*, 385 Ill. App. 3d 781, 801, 896 N.E.2d 460 (2008).

It is also clear that it is the siting authority's province "to determine the credibility of witnesses, to resolve conflicts in the evidence, and to weigh the evidence presented." *Land & Lakes Co. v. IPCB*, 319 Ill. App. 3d 41, 53, 743 NE2d 188 (3d Dist. 2000). The PCB does not reweigh the evidence, and the fact that there is some evidence that would support a different conclusion does not mean that the PCB will substitute its judgment for the siting authority's. *Id.* Indeed, the PCB "is not required to . . . reverse the [County Board's] decision merely because the

Board could conclude the opposite." *Fox Moraine*, 2011 IL App (2d) 100017, ¶ 15. In the present case, in which no opposing party presented its own witnesses or evidence, there was essentially no conflicting evidence to weigh.

### III. DISCUSSION

#### A. The County Board's Decision on Criterion I Was Not Against the Manifest Weight of the Evidence.

Criterion I is that "the facility is necessary to accommodate the waste needs of the area it is intended to serve." This Criterion is met when the evidence shows that the facility is *reasonably required* by the waste needs of the service area. *File v. DNL Landfill*, 219 Ill. App. 3d 897 (5th Dist. 1991) (emphasis added). The needs analysis has been interpreted to require a showing that the facility is expedient, or reasonably convenient. *Clutts v. Beasley*, 185 Ill. App. 3d 543 (5th Dist. 1989); *Tate v. IPCB*, 188 Ill. App. 3d 994, 1023, 544 N.E.2d 1176 (4th Dist. 1989). "Neither the Act nor case law suggests that need be determined by application of an arbitrary standard of life expectancy of existing disposal capacities. The better approach is to provide for consideration of other relevant factors such as future development of other disposal sites, projected changes in amounts of refuse generation within the service area, and expansion of current facilities. *Id.*

WMI presented testimony from Sheryl R. Smith regarding this criterion. Ms. Smith is presently employed as a senior project manager for AECOM and has been involved in the solid waste consulting business for the last 33 years. She has reviewed or prepared need reports for 35 solid waste facilities and has testified as an expert witness regarding Criterion I on 30 different occasions, including testifying before the Will County Board regarding the 2006 application for the Laraway site. (10/14/15 Tr. at 74-92.)

Ms. Smith identified the service area for the Laraway expansion as a 12-county area that includes Will, Cook, DeKalb, Du Page, Grundy, Kendall, Kane, Kankakee, Lake, LaSalle, and

McHenry Counties. Ms Smith identified the types of waste to be accepted at the facility, namely industrial waste, construction/demolition debris, and contaminated soils. She testified that she used a number of different sources to determine the waste generation for the 12-county service area because no standardized sources exist to evaluate the 3 primary components of the waste stream.

Ms. Smith testified that approximately 56.2 million tons of waste of the type accepted at Laraway will be generated over the 10-year life of the expansion, as compared to 23.1 million tons of existing capacity within the service area. Ms. Smith used conservative numbers in her analysis, for example by reducing the projected waste generated for each county by that county's stated recycling goal included in its solid waste plan to calculate a net waste generation projection. (10/14/15 Tr. at 82-85.) Further, in the 2006 hearing, Ms. Smith testified that she anticipated that the 2006 expansion would provide 30 years of additional capacity. However, based upon current intake of the accepted waste stream, which is far in excess of the originally anticipated amounts, she now anticipates that the capacity granted in 2006 will be used up in about 11 years, or 2021, which connotes a need for this type of facility in and of itself. Based on the data she examined, Ms. Smith concluded there is not sufficient existing capacity to meet the waste needs of the service area and that there is a disposal capacity shortfall of approximately 33.1 million tons. (10/14/15 Tr. at 87.) Notably, no testimony was presented by any of the objectors as to this criterion. There is thus no conflicting evidence regarding the projected waste generation or existing capacity amounts.

The County Board found that "Ms. Smith was competent to provide her expert opinion that a need exists for this proposed expansion. She was credible and has a solid understanding of the complexities of the necessary analysis needed to reach her conclusions." Hearing Officer Findings and Recommendations, at 3 (adopted by the County Board).



The County Board's findings as to Criterion 1 were not against the manifest weight of the evidence. Therefore, the PCB should affirm the County Board's decision to grant siting approval to WMI.

**B. The County Board's Decision on Criterion II Was Not Against the Manifest Weight of the Evidence.**

Criterion II requires that the facility be "so designed, located and proposed to be operated that the public health, safety and welfare will be protected." 415 ILCS 5/39.2(a)(ii). "The statute speaks of minimizing incompatibility and danger from accidents, it does not speak of guaranteeing no increase of risk concerning any of the criteria." *City of Rockford v. PCB*, 125 Ill. App. 3d 384, 390 (1984), *abrogated on other grounds by Town & Country Utilities v. PCB*, 225 Ill. 2d 103 (2007). "It has been held that the determination of this question is purely a matter of assessing the credibility of expert witnesses." *File v. D&L Landfill, Inc.*, 219 Ill. App. 3d 897, 907 (1991).

Three witnesses testified on behalf of WMI with respect to Criterion 2: Andy Nickodem, a civil engineer who testified regarding the design of the proposed expansion; Joan Underwood, who testified with respect to area geology and hydrogeology at the location of the landfill, as well as the proposed groundwater monitoring plan; and Dale Hoekstra, who testified as to the planned operations at the Facility.

The County Board found that Andy Nickodem offered credible testimony with respect to the design of the landfill. Mr. Nickodem is a civil engineer licensed in five states who specializes in landfill and solid waste facility design. He designed the 2006 Laraway Facility, and this design was approved by the Will County Board in 2007. Mr. Nickodem offered unrebutted testimony that the Laraway Facility has operated very well since it began in 2009. (10/21/15 Tr. at 302-305.)

The proposed expansion of the Laraway Facility is an extension of the previously permitted design. This expansion includes the same design features, which are comprised of liner, leachate collection, final cover, stormwater management, groundwater monitoring, and gas monitoring systems. Mr. Nickodem testified with respect to all of the components other than the groundwater monitoring system which was addressed by Ms. Underwood. The County Board found that the proposed design met all applicable state and federal requirements. Findings and Rec. at 4.

Mr. Nickodem offered extensive unrebutted testimony regarding the proposed liner and leachate collection systems. He testified regarding the adequacy of the composite liner system. He also testified that the leachate collection system is designed to control and collect leachate so that it is kept off the liner. (10/21/15 Tr. at 309-13, 320-24.) Mr. Nickodem testified regarding the final cover system that will be constructed once the expansion reaches final grade. (10/21/15 Tr. at 310, 314).

Mr. Nickodem also testified that he analyzed the site for stability and that the site was and is stable. Although the Port of Will County has a permit to construct an underground mine, a portion of which is permitted to be located beneath the North Area of the Laraway facility, no mining is currently being done. Nonetheless, WMI conducted a geotechnical analysis which showed that neither construction nor operation of an underground mine will damage the facility. (10/21/15 Tr. at 320-21; App. Ex. 3, at 5-11.)

The County Board included the following condition: "In the event that mining activity is proposed to take place beneath the North Area of the Facility, WMI will prepare a ground subsidence monitoring program to determine if any settlement is occurring due to mining activity. Any and all data from such program will be submitted to the County." Ord. 15-380, Att. A.

Mr. Nickodem further testified that WMI would meet all applicable Will County stormwater management requirements. He testified that the management system was designed to control runoff, prevent erosion, and allow sediment drop-off. (10/21/15 Tr. at 311, 314-16.) The County Board also included the following condition with respect to stormwater management: "The stormwater controls will comply with the Water Resources Ordinance for Unincorporated Will County." Ord. 15-380, Att. A.

The Application proposes a groundwater monitoring system, as well as ambient air monitoring around the landfill, gas monitoring in and around the waste disposal areas, and leachate monitoring. (10/21/15 Tr. at 316-19.) Because this landfill will not be accepting putrescible waste, there will likely be little to no landfill gas generated.

Joan Underwood is a hydrogeologist of considerable experience who testified about the geologic and hydrogeologic conditions at the Facility, as well as the proposed (and existing) groundwater monitoring system(s). Ms. Underwood has been a hydrogeologist for 37 years and has performed more than 40 hydrogeologic site investigations, including the investigation for the 2006 Laraway facility. Ms. Underwood developed the groundwater monitoring system for the 2006 expansion and has proposed appropriate supplementation of the existing system if the expansion is approved. (10/21/15 Tr. at 402-38.) Ms. Underwood provided credible testimony that the monitoring system was designed so as to detect any potential contaminants that may move off-site from the landfill itself and that the location of the landfill and the monitoring program appears to meet or exceed any requirements. Findings and Rec. at 5.

With respect to operation of the facility, Dale Hoekstra testified. Mr. Hoekstra is the current Director of Operations for WMI, and has 39 years of experience in the solid waste industry. Mr. Hoekstra is an IEPA certified landfill operator. He testified as to types of materials accepted (construction and demolition debris, nonhazardous special waste, and nonhazardous industrial waste) and the procedures for the receipt of materials, including the

manner of verification that waste is an acceptable type. Mr. Hoekstra testified regarding the procedures for leachate management and for dust and/or litter control. He also testified as to the normal hours of operation and the occasional need to extend hours for special circumstances. (10/21/15 Tr. at 441-53.)

The City of Joliet suggested that WMI had not met its burden under Criterion 2 with respect to leachate management. However, the County Board did not concur with Joliet's interpretation. Instead, the County Board added the following special conditions related to operation:

- 1) WMI shall notify the Will County Resource Recovery and Energy Division of the need to temporarily extend the hours of operation, and that a 24-hour notification is required for waste resulting from any public benefit purpose within Will County.
- 2) WMI shall observe what type of waste material is within each open top vehicle prior to being unloaded at the landfill site that i) is not accompanied with proper paperwork; or ii) is a new waste stream to the landfill, including waste coming from a new site or delivered from a new hauler.

Based on the evidence presented by WMI, much of which was unrebutted, and "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 adopted the Committee's Decision and Recommendation and found that Criterion II had been met.

**C. The County Board's Decision on Criterion VI Was Not Against the Manifest Weight of the Evidence.**

Criterion VI requires that the siting authority find that "the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows." 415 ILCS 5/39.2(a)(vi). "The Act does not require elimination of all traffic problems, nor is the applicant required to provide evidence of exact routes, types of traffic, noise, dust, or projections of volume and hours of traffic, because the Act does not require a traffic plan but rather a showing that the traffic patterns to and from the facility are designed to minimize impact on existing traffic flows." *Fox Moraine*, 2011 IL App (2d) 100017, ¶ 116 (citations omitted).

Lynn Means testified for the Applicant regarding Criterion 6. She is a certified professional transportation operations engineer with over 17 years of engineering experience. Ms. Means testified that her analysis led to an identification of a single traffic pattern that would minimize the impact on existing traffic loads, namely, Illinois Route 53 to Laraway Road west to the landfill. This traffic pattern is the same as that identified by the County Board in its 2006 Laraway approval. (10/19/15 Tr. at 186-91.)

Ms. Means further testified that the entrance to Laraway Landfill would be moved slightly to the north so that it aligned directly with Laraway Road, which would lead to a smoother flow of traffic into and out of the landfill, and thus would in turn help to minimize the effect on the existing traffic flows. Ms. Means testified regarding existing plans to add an additional left-turn lane for east-bound traffic turning north on Route 53, which is intended to address occasional traffic backups at the intersection. Ms. Means stated that current backups are generally disbursed within one or two cycles of the traffic signal lights at the intersection because of the "acuated traffics<sup>2</sup> signal." (10/19/15 Tr. at 192-95.)

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<sup>2</sup> Acuaded traffic signals identify the amount of traffic and adjust the length of the traffic lights accordingly.

Ms. Means noted that other roadways in the area are not acceptable, because the roads are too small, do not provide direct access, or are not permitted to handle the volume of truck traffic generated. No other alternate route would provide the same minimization of the impact on existing traffic flows as the proposed route does.

Notably, the County Board agreed that Laraway Road to Illinois Route 53 was a preferred route when it approved the 2006 application. The County Board included the following special conditions:

- a. WMI shall inform all haulers to and from the Facility of the designated truck routes in writing.
- b. If a hauler is identified that it has not complied with the designated route requirement, with three violations within a 12 month period, WMI must inform the hauler that it will be banned from disposing at the landfill for at least four weeks.
- c. WMI shall inform haulers not to use Brandon Road under any condition, except as authorized by the County in writing. Ord. 15-380, Att. A.

Based on the evidence presented, and on its review of the entire record, the County Board found that WMI had met its burden with respect to Criterion VI. This finding was not against the manifest weight of the evidence.

#### **IV. CONCLUSION**

The foregoing discussion makes it clear that the County Board's decision to grant siting approval was not against the manifest weight of the evidence. There was little to no conflicting evidence, and the County Board properly exercised its discretion to weigh the credibility of the witnesses presented by WMI. For each of the contested statutory criteria, the County Board found that WMI had met its burden. This finding was not in any instance against the manifest weight of the evidence.

WHEREFORE, WILL COUNTY and the WILL COUNTY BOARD respectfully request that this Honorable Board uphold the County Board's grant of siting approval.

Respectfully submitted,

WILL COUNTY, ILLINOIS and WILL  
COUNTY BOARD

By: /s/Charles F. Helsten  
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BEFORE THE WILL COUNTY BOARD  
WILL COUNTY, ILLINOIS

IN RE THE APPLICATION OF WASTE )  
MANAGEMENT OF ILLINOIS, INC. FOR )  
SITE LOCATION APPROVAL FOR )  
LARAWAY RDF EXPANSION FILED )  
JULY 10, 2015 )

FILED  
2015 DEC 10 A 10:32

NANCY SCHULTZ VOGTS  
COUNTY CLERK  
WILL COUNTY, ILLINOIS

**Findings And Recommendations of**  
**Larry M. Clark, Hearing Officer Duly Appointed**  
**By The Will County Board, Illinois**

1. On July 10, 2015 Waste Management of Illinois, Inc. (hereinafter referred to as "WMI") filed its application for local siting approval for the expansion of the Laraway Recycling and Disposal Facility (the "Application") with the Will County Clerk.
2. The subject property that constitutes the area expansion is located within Will County and outside of any incorporated municipalities.
3. WMI is the owner and proposed operator of the facility.
4. No testimony was presented objecting to the statutory pre-filing notices filed by WMI and it appears that all notices were properly filed.
5. The Application appears to contain all information required by Section 39.2 of the Illinois Environmental Protection Act as well as the Will County Pollution Control Facility Siting Ordinance dated January 19, 2006.
6. WMI has paid the required application fee to Will County.
7. Three public hearings were held on the Application beginning October 14, 2015 and continuing to October 21, 2015, and ending on October 23, 2015.
8. Oral Public Comment was received on several occasions
9. Your Hearing Officer recommends the following findings and/or conditions to the Will County Board, criterion by criterion as follows:





I. Criterion Number 1: The Facility Is Necessary To Accommodate The Waste Needs Of The Area It Is Intended To Serve.

WMI presented testimony from Sheryl R. Smith regarding this criterion. She is presently employed by AECOM and has been involved in the solid waste consulting business for the last 33 years. She has reviewed or prepared 35 solid waste need plans and has testified as an expert witness in 30 different Criterion 1 need analysis. She previously testified in the 2006 application before the Will County Board for the Laraway site.

Ms Smith testified that she used a number of different sources to determine the waste generation for the 12 county service area because no standardized sources exist to evaluate the 3 primary components of the waste stream: industrial, construction/demolition debris and contaminated soils. Ms. Smith was cross-examined extensively by counsel for the objector(s) upon her methodology to determine the need for disposal in the service area. Because there is no uniform method of keeping tract of the amounts of industrial, construction/demolition and contaminated soils that are generated and available for disposal, Ms. Smith used the only information available to reach her conclusions of a need for this facility.

She testified that approximately 56.2 million tons of the types of acceptable waste proposed (and currently accepted) at Laraway will be generated over the 10 year life of the proposed expansion. She also testified that only 23.1 million tons of capacity exist within the service area. She did not consider two large landfills located within in the service area that have received local approval, but have not yet received IEPA approval in her evaluation of available capacity. This is common in the analysis of these facilities. Ms. Smith testified that there are other reasons that this "locally approved capacity" shouldn't be considered, including the fact that local host agreements may have capacity limits to accepting waste outside of their jurisdiction. Ms. Smith used conservative numbers when she was able to obtain data. For example she used different county solid waste plans to determine the amount of a particular type of waste that would be generated, but then reduced that quantity by the particular county's recycling "goal". Thus if a county was projected to generate a 100,000 tons of a particular type

of waste and had a county plan of recycling 50% of that type of waste, she only used 50,000 tons in her needs analysis generation calculation without regard to whether that recycling rate was actually reachable.

In the 2006 hearing Ms. Smith testified that she anticipated that the 2006 expansion would provide 30 years of additional capacity. Based upon current intake of the accepted waste stream she now anticipates that the capacity granted in 2006 will be used up in about 11 years, or 2021. The best available data appears to be the current intake of the Laraway facility. It is clear that the intake is far in excess of what was originally anticipated, thereby adding additional justification for finding that a need exists.

It must be noted that no testimony was presented by any of the objectors as to this criterion. There has been no direct contradiction of the amounts of waste generated and needing disposal or the amount of waste capacity for said disposal. Ms. Smith was competent to provide her expert opinion that a need exists for this proposed expansion. She was credible and has a solid understanding of the complexities of the necessary analysis needed to reach her conclusions. It is my belief that WMI has met their burden in this Criterion 1 without the addition of any special conditions. No special conditions were proposed by any of the Parties to this Hearing or in oral or written comment.

## II. Criterion Number 2: The Facility Is So Designed, Located And Proposed To Be Operated That The Public Health, Safety And Welfare Will Be Protected.

Three witnesses testified on behalf of WMI with respect to Criterion 2. They were Andy Nickodem, a civil engineer who testified regarding the design of the proposed expansion; Joan Underwood who testified with respect to the location of the landfill in regards to the area geology (and hydrogeology) as well as a proposed groundwater monitoring plan and Dale Hoekstra who testified as to the operations of the facility. I will summarize the testimony regarding Criterion 2 in the three parts that have been addressed by the three witnesses.

### DESIGN

Andy Nickodem credibly testified on behalf of WMI with respect to the design of the landfill.

He is a licensed civil engineer who has spent his entire 28 year career in the design of landfills and other solid waste facilities. He designed the 2006 expansion of Laraway that was approved by the Will County Board in 2007.

The proposed design of this expansion includes all of the modern landfill components. It proposes a liner system, a leachate collection system, a final composite cover system, a stormwater collection system and a monitoring system. Mr. Nickodem testified with respect to all of the components other than the monitoring system which was addressed by Ms. Underwood. Because this is a landfill that will not be accepting putrescible waste, it is likely that the generation of landfill gas will be minimal, if any. As a result, an active gas collection system has not been proposed, although gas probes will be installed to monitor for gas anyway. If it becomes necessary to collect methane gas, the property can be retro-fitted for such purpose.

Although Mr. Nickodem was cross-examined by several of the Parties, the proposed design appears to meet all necessary requirements imposed by the state or federal agencies. Mr. Nickodem did represent that WMI would also meet all Will County stormwater management practices, as applicable. The Will County Staff review has proposed the following condition: "The stormwater controls will comply with the Water Resources Ordinance for Unincorporated Will County." I see no reason not to include this special condition.

The Port of Will County has retained certain mining rights under a portion of the north expansion area. Mr. Nickodem testified that he analyzed the potential for stability and that the site was and is stable and is not currently a concern because no mining is currently being done under the proposed expansion nor is there any current plans to mine under the expansion. WMI has indicated that they could monitor the area to determine if there is any vertical movement through the use of GPS.

The Will County Staff has proposed the following condition: "WMI will submit the mine subsidence plan to Will County for review before monitoring begins, and will submit all monitoring information from any underground mine subsidence monitoring program implemented on the north portion of the landfill that is ultimately undermined." Again I see no reason not to include this as

a special condition.

#### LOCATION

Ms. Joan Underwood is a hydrogeologist who testified about the groundwater movement under and around the site as well as the proposed (and existing) groundwater monitoring system(s). She developed the groundwater monitoring system for the 2006 expansion and has proposed necessary changes to the system if the expansion is approved. She is licensed in several states as a geologist or hydrogeologist, has a BS in geology and a masters in hydrogeology. She has done more than 40 or 50 site investigations and evaluations for hydrogeology.

Ms. Underwood responded to questions from a number of the Parties as well as to questions from the public. She explained how and why the monitoring system was to be located in the uppermost aquifer (water bearing strata) and the actual location of the monitoring wells. She credibly responded to questions regarding some high levels that were found in the monitoring wells installed for the 2006 expansion and explained how the levels are set and may be amended by the IEPA depending on site conditions and history.

The monitoring system appears to be designed so as to detect any potential contaminants that may move off-site from the landfill itself. The location of the landfill and the monitoring program appears to meet or exceed any requirements.

#### OPERATIONS

Mr. Dale Hoekstra has spent his entire 39 years career with WMI starting out in their landfill manager training program in 1976. He is now the Director of Operations. He testified as to the procedures for the receipt of materials, types of materials accepted, and the procedures for dust and/or litter control. He also testified as to the normal hours of operation and the occasional need to extend hours for special circumstances.

Will County Staff has recommended two special conditions as follow:

- 1) WMI shall notify the Will County Resource Recovery and Energy Division of the need to temporarily extend the hours of operation, and that a 24-hour notification is required for

waste resulting from any public benefit purpose within Will County.

- 2) WMI shall observe what type of material is within each open top vehicle prior to being unloaded at the landfill that
  - a. is not accompanied with proper paperwork; or
  - b. is a new waste stream to the landfill, including waste coming from a new site or delivered from a new hauler.

Both of these special conditions are recommendations that will help to clarify the operations of the proposed expansions and should be included with an approval of this condition.

The City of Joliet has suggested that WMI has not met their burden with respect to the handling of leachate. They have proposed a special condition that they are requesting to be attached to an approval, if any, that would require that the Applicant (WMI) comply with the terms of the Agreement between WMI and the City of Joliet relating to the City's sanitary sewer and wastewater treatment utility system. They are proposing that WMI have the City of Joliet treat the leachate as opposed to taking the leachate to other off-site treatment facilities. This proposed special condition is not well founded in that the relevant portions of their Agreement state as follows: ". . . WMI (Applicant) may (emphasis added) connect the Laraway RDF to the City System (a sanitary sewer and wastewater treatment utility system . . . ". The Agreement, on its face appears to authorize, but not require WMI to take their leachate to the City of Joliet for treatment. I cannot concur with the addition of this proposal as a special condition to approval.

I do find that WMI has met its burden with the addition of the 4 special conditions proposed by Will County Staff.

**III. Criterion Number 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.**

WMI called two witnesses to testify in support of Criterion 3, Chris Lannert and Peter J.

Poletti. Mr. Lannert testified that the facility is located so as to minimize incompatibility with the surrounding area and Mr. Poletti testified that the facility is located so as to minimize the effect on the value of the surrounding property.

Mr. Lannert has testified in approximately 19 transfer station hearings and approximately 34 solid waste landfill sites in regard to the first part of Criterion 3. He is a land use planner and landscape architect. He also testified in the 2006 Laraway hearing and has seen the land use character change in that time to a more industrialized use as opposed to more open space. It was his opinion that the proposal is located so as to minimize incompatibility with the character of the surrounding area as the character is becoming increasingly more industrialized. There was little cross-examination of Mr. Lannert and no testimony was offered to rebut his testimony.

The County Staff recommended several special conditions to further minimize the potential impact to the surrounding area as follows:

- 1) In order to address potential visual and noise concerns for travelers and residents (current and future) to the east and south of the site, the development of the eastern and southern portions of the landfill shall be built in such a manner that visual barrier berms shall be placed and vegetated to minimize view of the landfill operations.
- 2) County Staff shall have the opportunity to review and comment on the berm and barrier design prior to the construction permit being submitted to IEPA.
- 3) The landfill operator shall building the berms on the east side of the property at least 300 feet in advance of any cell construction, measured from the southernmost coordinate of the cell. Vegetation shall be established prior to waste placement in the adjacent cell. These cells include phases 3, 4, 5, 6, 7, and 8. Along the southern borders of phases 8, 9, 10, 11, 12, 13, 14 and 15, the embankments shall be constructed at least 150 feet in advance of cell construction, and the vegetation shall be established prior to waste placement in the adjacent cell.

Although the County Staff has recommended these special conditions to minimize the visual

impact of the landfill construction and waste receipt, the screening berms will have less impact the further away you get from the landfill. WMI has proposed screening berms and plantings as part of their application. It is unclear as to whether the County Staff proposed berms are in addition to the proposed WMI berms or are an attempt only to clarify the timing of the WMI proposed berms and vegetation. To the extent that WMI's proposed screening berms are to be installed, I would concur with the time line as identified by County Staff. I do not think that additional berms over and above what WMI has proposed is necessary.

Mr. Poletti testified that he has prepared approximately 40 reports for the second part of Criterion 3: the facility is located so as to . . . minimize the effect on the value of the surrounding property. He has testified in support of approximately 35 hearings. In this case he was unable to do a quantitative analysis because of the limited number of residential sales in the area surrounding the site. There were only a couple of sales at approximately 1 mile from the site, but he could not analyze them because of other undesirable land uses closer to them. It was Mr. Poletti's opinion that the proposed expansion not only "minimized" the effect on the value of the surrounding area, but opined that there was no effect on the value of the surrounding area. I concur with his analysis and believe that WMI has met their burden with respect to Criterion 3 as conditioned above.

**IV. Criterion Number 4: The Facility Is Located Outside The Boundary Of The 100 Year Floodplain.**

Andy Nickoderm testified with respect to the fact that the proposed facility is located outside of the 100 year floodplain. No contradictory evidence was given to his conclusion and I find that WMI has met their burden with respect to this criterion.

**V. Criterion Number 5: The Plan Of Operations For The Facility Is Designed To Minimize The Danger To The Surrounding Area From Fire, Spills, Or Other Operational Impacts.**

Mr. Dale Hoekstra also testified in regard to Criterion 5. He spoke of their fire protection and control plan, their spill prevention plan, their accident prevention plan, their health and safety program and their emergency action plan. There was little cross-examination with respect to Mr. Hoekstra's testimony regarding this criterion. The Application contained adequate description of the various plans of operation and I find that WMI has met their burden with respect to this criterion.

**VI. Criterion Number 6: The Traffic Patterns To Or From The Facility Are So Designed As To Minimize The Impact On Existing Traffic Flows.**

Ms. Lynn Means testified on behalf of WMI regarding Criterion 6. She has over 17 years of engineering experience as is a certified professional transportation operations engineer. She testified that she used 2018 as the baseline when the expansion areas of the landfill (permitted under this request) would start being used. She testified as to the peak times for the area traffic as well as the peak times for the landfill traffic

Ms. Means testified that 95% of the landfill traffic comes from the north. Her review of the area roadways led to her identification of one traffic pattern that would minimize the impact on existing traffic loads: which is the Illinois Route 53 to Laraway Road west to the landfill route. This is the same traffic pattern that the County Board identified in the 2006 approval of the Laraway expansion.

Ms Means was cross-examined extensively over her determinations of present traffic and the current levels of service on the area roadways, whether or not there is a need for additional roadway improvements, consideration of the railroad crossing and train traffic and its potential impact to the Laraway Road traffic, the effect of the closure Walter Strawn closing, why other reports have different number counts and numerous other issues.

Ms. Means also testified as to how the entrance to Laraway Landfill would be moved slightly to the north so that it aligned directly with Laraway Road and would therefore create a smoother flow of traffic into and out of the landfill. As such, this realignment would help to minimize the effect on



the existing traffic flows.

Ms. Means testified that although there were occasional traffic backups at the intersection of Laraway Road and Illinois Route 53 for eastbound left (north) turning traffic, there were already plans in place that have addressed the future alterations at that intersection to add an additional left-turn lane for the east-bound Laraway traffic turning north on Illinois Route 53. Any current backups were generally dispersed within a cycle or two of traffic signal lights at that intersection because of the “actuated traffic signal” at that intersection. Actuated traffic signals “read” the amount of traffic and adjust the length of the traffic lights to as to react to the amount of traffic in any specific direction. She went into an extensive discussion as to why in some cases, because of the actuated lights, that the wait at the intersection may stay the same or even be better when additional traffic is present.

The criterion that WMI must comply with, however, only says that the traffic patterns to and from the facility must be designed so as to minimize the impact on exiting traffic flows. Ms. Means talked about the other area roadways in the area. These other transportation alternatives are not acceptable, because the roads are too small, don’t provide direct access, or are not permitted to handle the volume of truck traffic generated. Clearly there is no other alternate route that would provide the same “minimization” of the impact on existing traffic flows as the proposed route does.

The County Board also agreed with the use of Laraway Road to Illinois Route 53 as a preferred route in 2006 when they approved the prior application. The County Staff report agrees with this route and has proposed additional Special Conditions so as to require that the landfill traffic use the Laraway Road to Illinois Route 53 route as follows:

- 1) WMI shall inform all haulers to and from the facility of the designated truck routes in writing.
- 2) If a hauler is identified that it has not complied with the designated route requirement, with three violations within a 12 month period, WMI must inform the hauler that it will be banned from disposing at the landfill for at least four weeks.

- 3) WMI shall inform haulers not to use Brandon Road under any condition, except as authorized by the County in writing.
- 4) The expansion will not be allowed until the intersection of Centerpoint Way and Laraway Road is upgraded with a traffic signal as illustrated in the application.

I concur with the proposed County Staff recommendations as these conditions will serve to further minimize any impact upon exiting traffic flows. I do believe that with the inclusion of these special conditions that WMI has met their burden with respect to Criterion 6.

**VII. 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.**

Mr. Dale Hoekstra testified that the facility will not be accepting hazardous waste. I find that WMI has met their burden with respect to this criterion.

**VIII. 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.**

Ms. Sheryl Smith testified that the proposal is consistent with the Will County Solid Waste Plan, as amended. Specifically she testified that prior to any application being filed, the applicant must first reach a host agreement with Will County, which was done in this case. No contradictory evidence was presented or filed and I find that WMI has met their burden in regard to this Criterion 8.

**IX. 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.

Mr. Andy Nickodem testified that the proposed facility is located outside of a Regulated Recharge Area. As the only Regulated Recharge area within the State of Illinois is located in Peoria County. WMI has met their burden with respect to this criterion as well.

I find that WMI has met their burden with respect to each of the nine criterion with the inclusion of aforementioned special conditions.

Respectively Submitted,

LARRY M. CLARK

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
Western Division

In Re:	)	BK No.: 16-81707
Janet K. Naretta	)	
	)	Chapter: 7
	)	Honorable Thomas M. Lynch
	)	
Debtor(s)	)	

**ORDER LIFTING AUTOMATIC STAY**

THIS MATTER coming before the Court on the Motion of the Secured Creditor, BLACKHAWK BANK, and with the Court being advised of all facts and circumstances herein, IT IS HEREBY ORDERED THAT:

BLACKHAWK BANK is granted full and complete relief from the Automatic Stay of Section 362 or any restraint to permit BLACKHAWK BANK to exercise all of its legal and equitable rights and remedies with respect to the property commonly known as 308 Coronado Boulevard, Loves Park, IL 61111, as more particularly described in the Motion for Relief.

This Court further finds that Bankruptcy Rule 4001(a)(3) is not applicable and movant is authorized to immediately enforce and implement an Order granting relief from the Automatic Stay.

Enter:

Dated:

United States Bankruptcy Judge

**Prepared by:**

Yashekia T. Simpkins (ARDC # 6307014)  
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ysimpkins@hinshawlaw.com

BEFORE THE WILL COUNTY BOARD  
WILL COUNTY, ILLINOIS

FILED

IN RE THE APPLICATION OF: )  
)  
WASTE MANAGEMENT OF ILLINOIS, )  
INC. FOR SITE LOCATION APPROVAL )  
FOR THE LARAWAY RECYCLING AND )  
DISPOSAL FACILITY EXPANSION )

2015 DEC 11 A 11:45

NANCY SCHULTZ VOOTS  
COUNTY CLERK  
WILL COUNTY, ILLINOIS

**DECISION AND RECOMMENDATION OF POLLUTION CONTROL FACILITY  
COMMITTEE**

On or about December 10, 2015, Larry M. Clark, the Hearing Officer duly appointed by the Will County Board in the above matter rendered his final Findings and Recommendations. The Committee has carefully reviewed those Findings and Recommendations.

Pursuant to Section VIII (E) of the Will County Pollution Control Facility Siting Ordinance dated January 19, 2006, the Pollution Control Facility Committee appointed to serve in this matter is required to render its decision on the Application, and, in turn, make its recommendation concerning the Application to the full County Board.

In all but several respects, the Committee concurs with the December 10, 2015 Findings and Recommendations of the Hearing Officer. In that regard, Committee does not believe that Special Condition 5(d) proposed by Will County Staff with respect to Criterion 6 (*i.e.*, "The expansion will not be allowed until the intersection of Centerpoint Way and Laraway Road is upgraded with a traffic signal as illustrated in the application." ) is reasonable and necessary to accomplish the purposes of Section 39.2 et seq. of the Illinois Environmental Protection Act (the "Act") and further, is thus inconsistent with the regulations promulgated by the Illinois Pollution Control Board (all as provided by Section 39.2(d) of the Act).

C 5320



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In addition, for the reasons discussed during the course of the Committee's December 10, 2015 meeting to render its decision on the Application, the Committee feels that Special Condition 3(b) proposed by Will County Staff should be amended to read as follows:

"In the event that mining activity is proposed to take place beneath the North Area of the Facility, WMII will prepare a ground subsidence monitoring program to determine if any settlement is occurring due to mining activity. Any and all data from such program will be submitted to the County."

In addition, the Committee feels that Special Condition 3(c) should be modified to read as follows:

"In the terms of timing and sequence, the landfill operator shall build the screening berms proposed for the East side of the property at least 300 feet in advance of any cell construction, measured from the southernmost coordinate of the cell. Vegetation shall be established prior to waste placement in the adjacent cell. These cells include phases 3, 4, 5, 6, 7 and 8. Along the southern borders of phases 8, 9, 10, 11, 12, 13, 14, and 15, the proposed landfill perimeter berm shall be constructed at least 150 feet in advance of cell construction, and the vegetation shall be established prior to waste placement in the adjacent cell."

With the deletion/excising of proposed Special Condition 5(d), and, in addition, the modification of Special Conditions 3(b) and 4(c) in the manner noted above, the Committee recommends that the Will County Board adopt in its entirety the December 10, 2015 Findings and Recommendations of the Hearing Officer and, subject to the other Special Conditions contained therein, grant site location approval for the expansion of the Laraway Recycling and Disposal Facility as proposed by Waste Management of Illinois, Inc. in the Application filed with the Will County Board on July 10, 2015.

The basis for the Committee's recommendation to the full County Board is:

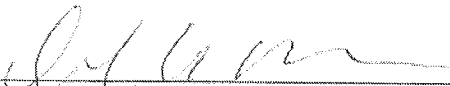
1. The Application filed herein,
2. The testimony and other proofs received during the course of the public hearing conducted on this Application;
3. The record of the siting proceeding as a whole; and

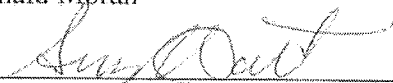
C 5321

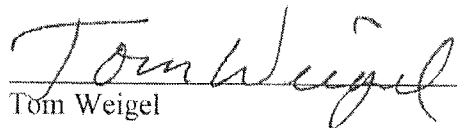
4. The Hearing Officer's December 10, 2015 Findings and Recommendations.

Respectfully submitted,

Dated this 11<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
Donald Moran

  
\_\_\_\_\_  
Suzanne Hart

  
\_\_\_\_\_  
Tom Weigel

C 5322



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

FILED

**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 10<sup>th</sup> 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 17<sup>th</sup> day of December, 2015.

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

<b>AYES:</b>	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
<b>ABSTAIN:</b>	Freitag

Result: Approved - [Unanimous]

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

Approved this 21<sup>st</sup> day of December, 2015.

*Lawrence M. Walsh*  
Lawrence M. Walsh  
Will County Executive

**ATTACHMENT "A"**  
**SUMMARY OF GENERAL AND SPECIAL CONDITIONS**

GENERAL CONDITION

**(County Involvement in Permitting Process)**

Will County shall have the right to be involved in the initial permitting for the horizontal and vertical expansion of the Laraway RDF. As part of this involvement, Will County may attend meetings between WMI and the IEPA. Will County and its consultants may also review and comment on WMI's applications (provided such review and comment is conducted in a timely manner) prior to WMI's submission of the applications to the IEPA. WMI agrees to reimburse Will County for the reasonable costs of its consultants to review and comment on WMI's applications and submissions.

SPECIAL CONDITIONS AS TO STATUTORY CRITERIA

Criterion 1 (Need)

Laraway RDF shall be restricted to receiving the waste types it lists in the Application, and shall not accept municipal solid wastes except those it proposed to accept in testimony and in the application.

Criterion 2 (Design and Operation)

- a. The stormwater control systems will comply with the Water Resources Ordinance for Unincorporated Will County.
- b. In the event that mining activity is proposed to take place beneath the North Area of the Facility, WMI will prepare a ground subsidence monitoring program to determine if any settlement is occurring due to mining activity. Any and all data from such program will be submitted to the County.
- c. WMI shall notify the Will County Resource Recovery and Energy Division of the need to temporarily extend the hours of operation, and that a 24-hour notification is required for waste resulting from any public benefit purpose within Will County.

C 5330

- d. WMI shall observe what type of waste material is within each open top vehicle prior to being unloaded at the landfill site that
  - i. is not accompanied with proper paperwork; or
  - ii. is a new waste stream to the landfill, including waste coming from a new site or delivered from a new hauler.

Criterion 3 (Compatibility & Property Value)

- a. In order to address potential visual and noise concerns for travelers and residents (current and future) to the East and South of the site, the development of the Eastern and Southern portions of the landfill shall be built in such a manner that visual barrier berms shall be placed and vegetated to minimize view of the landfill operations.
- b. County Staff shall have the opportunity to review and comment on the berm and barrier design prior to the construction permit being submitted to the IEPA.
- c. In the terms of timing and sequence, the landfill operator shall build the screening berms proposed for the East side of the property at least 300 feet in advance of any cell construction, measured from the southernmost coordinate of the cell. Vegetation shall be established prior to waste placement in the adjacent cell. These cells include phases 3, 4, 5, 6, 7 and 8. Along the Southern borders of phases 8, 9, 10, 11, 12, 13, 14, and 15, the proposed landfill perimeter berm shall be constructed at least 150 feet in advance of cell construction, and vegetation shall be established prior to waste placement in the adjacent cell.

Criterion 6 (Traffic)

- a. WMI shall inform all haulers to and from the facility of the designated truck routes in writing.
- b. If a hauler is identified that it has not complied with the designated route requirement, with three violations within a 12 month period, WMI must inform the hauler that it will be banned from disposing at the landfill for at least four weeks.
- c. WMI shall inform haulers not to use Brandon Road under any condition, except as authorized by the County in writing.

C 5331