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Letter from the President

Our Vice President, Don Terry of Jackson County, has been busy coordinating the planning of our 18th Annual Conference. Along with the assistance of the Board, he is now planning and scheduling the session topics. Some session timeslots are yet to be scheduled, therefore, if you have any pertinent topic ideas that you would like to present, please contact Mr. Terry at vp@ilcswma.org for his review and consideration. This will be an independent ILCSWMA conference, held at the Starved Rock Lodge in Utica. Starved Rock has always been an enjoyable location for us. Our last conference there was in 2006 and before that, 1999. The conference will be on September 22nd and 23rd, which is a Wednesday and Thursday. This is an odd time of the week for our conference, however, scheduling was very tight at the Lodge even though the facility contract was signed last April. We do hope to have an evening gathering before the conference, on Tuesday the 21st, for early arrivals. A limited number of rooms have been reserved for the conference at the \$70 single/\$80 double occupancy rate. Therefore, it would be a good idea to reserve your room early by calling their reservation desk at 1-800-868-7625. I hope to see you there.

ILCSWMA is also excited about a new initiative that will be conducted in conjunction with the Product Stewardship Institute (PSI). The PSI Initiative will focus on products, such as paints, pharmaceuticals, fluorescent lamps, etc., that generally cause a solid waste management problem or burden for local governments. The initiative is in its infancy stage, however, the momentum is building and a kick-off call will be scheduled soon. Also thanks to Susan Boehme, from Illinois-Indiana Sea Grant, for providing a portion of the funds needed for the initiative. For more information on PSI, visit <http://www.productstewardship.us/>.

Since the Illinois legislative session is underway I encourage you to review the Legislative Update posted on the "Documents" page of our website for any bills that may have an impact on your program. If so, please contact your local legislators regarding your position. The report is updated every couple weeks during the spring legislative session. If you have questions about any proposed bills, feel free to send an email to info@ilcswma.org, as other ILCSWMA members may already be working to understand, support, defeat, or modify that bill. We can help bring together members who are "like-minded" on various bills.

Furthermore, eight counties are up for renewal at the end of June for their delegation agreements with the IEPA to conduct solid waste enforcement programs. As a result of the minimal IEPA enforcement grant funding, some counties may have an understandably difficult time justifying the continuance of the enforcement program, especially at a time when local budgets are already in a pinch. However, I encourage delegated counties to thoroughly consider and evaluate the benefits that the agreements provide to your local area, before any decision is made to discontinue the program.

Thanks to all of our members for your membership renewals and continued support.

Dave Hartke
ILCSWMA President
president@ilcswma.org



STAR AWARDS

In 2008, the ILCSWMA Board of Directors created the Star Awards program to recognize a government or non-profit member organization in each region that is accomplishing a lot with very little funding. Recipients receive a write-up in this newsletter, a Certificate of Achievement, and free registration to the next ILCSWMA Annual Conference.

The Board now seeks member organizations from the Southern, Central and Northern Regions to nominate themselves for this award. If you are not sure what region you are in, please see the ILCSWMA website, Board of Directors page. Organizations that are achieving great things in their communities, with little financial support, are encouraged to apply.

Nominations should consist of a one-page or less narrative about your organization, the activities you undertake, how much funding you receive, and what role partners and volunteers play in your program. Nominations are due to the respective Regional Representatives by June 1. For contact information on these Board members, please see the front page of this newsletter.

Don't hesitate to toot your own horn - if you don't, who will? Your efforts may seem small, but they are likely just the type of things that need to be recognized by those in your community and your solid waste industry peers.

ILCSWMA Member News

CHAMPAIGN COUNTY

On May 8, Champaign County will hold a county-wide residential electronics collection event. The event will be held from 8am to 1pm at 3202 Apollo Drive in Champaign. Items accepted include computers, monitors, printers, and other computer peripherals, TVs, VCR and DVD players, mobile phones and more. Limit 10 items per resident. For more information, call 217/328-3313 or visit <http://www.ccrpc.org/>

COLES COUNTY

Former ILCSWMA President Jeff Lahr is leaving his position as planner with the Coles County Regional Planning and Development Commission to become administrator of the County's mental health agency. Jeff has been with the county planning commission for 18 years and has handled solid waste issues and grant administration. Jeff served on the ILCSWMA Board of Directors for a number of years, including several positions on the executive committee, including Treasurer, Vice President and President. If you'd like to contact Jeff, his email will remain the same at jlahr@co.coles.il.us Good luck Jeff!

JACKSON COUNTY

Due to budget restrictions, Jackson County will only be holding one household chemical collection event in 2010. For the past three years, the County has held events in both the spring and fall. The 2010 event will be on Saturday, May 1. These events are paid for with a landfill host fee specifically earmarked for household chemical collection services. The County recently signed a three year service agreement with Heritage Environmental Services for these events.

Jackson County recently revamped its electronics recycling contract with Vintage Tech Recyclers after the implementation of the new State electronics recycling law. The contract will result in a significant reduction in the total costs for the program. Previously, \$65,000 had been budgeted for this program in 2010, but those costs will now drop below \$30,000, most of which is used to cover local collection costs, not processing costs. Jackson County was the first unit of local government in Illinois to

implement a permanent, year-round collection program for electronics in 2002. To date, over 1.6 million pounds of electronics have been recycled through the program.

JO DAVIESS/CARROLL COUNTIES

The second Greening Our Communities conference is scheduled on Earth Day, Thursday, April 22, at Buck's Barn in Thomson, IL. This event is a unique opportunity for business leaders, government officials, community organizations, and interested individuals to learn about resources available to maintain and improve the environment in our communities. Presentation topics include Geothermal Well Regulation, Urban Sprawl, Green Grants, Des Plaines "Deep Green" Program, and a Multi-City Green Team Panel. There will also be a number of short presentations on various subjects from Smart Energy Design Assistance Center, International Dark Sky Association, and more. Additionally, there will be exhibitors offering information on green services. The conference fee, which includes a continental breakfast and buffet lunch, is \$25 for advance registration and \$35 the day of the conference. You may register online at <http://jdc.extension.uiuc.edu> or at the Jo-Carroll Extension offices in Mt. Carroll or Elizabeth. Contact Maggie Friedenbach, Recycling and Conservation Programs Coordinator, at 815-244-9444, or mfrieden@illinois.edu for more information. The program is sponsored by the Green Fair Alliance and facilitated by the University of Illinois Extension.

Jo Carroll/Carroll Counties Solid Waste Agency will be holding a "Super Recycling Event" on April 3rd. Materials accepted for recycling include: used motor oil, e-waste, latex paint, batteries, and household hazardous waste. Some fees may apply to specific materials. This collection event is sponsored by Jo-Carroll SWA, Jo-Carroll Extension Unit, and the Green Fair Alliance.

MACON COUNTY

The Macon County Solid Waste Management Department has officially changed the department name to Macon

ILCSWMA Member News (cont.)

County Environmental Management Department. This decision was arrived through lengthy conversations as to the current mission and changes within the economic climate of today. Utilizing a department name with a positive connotation will turn focus toward environmental concerns and positive solutions. The term 'waste' within the context of the department name was contrary to the concept of recycling and reusing. Since department programs focus on energy and resource conservation and reducing our environmental impact, Environmental Management seems to be a better fit.

CITY OF URBANA

Long-time ILCSWMA member, Rod Fletcher, will be retiring on April 2, after 35 years with the City of Urbana. He currently serves as the City's Environmental Services Manager. Rod has always been a source of information to other members and has helped advance governmental recycling in Illinois. ILCSWMA wishes him well!

WILL COUNTY

Will County is proud to announce that Wyn Hyzer has been hired as the new Environmental Educator utilizing funds from a Department of Energy grant. As you may recall, Wyn worked part-time as the Recycling Educator for the City of Joliet for 11 years, but the position was eliminated due to budget cuts in December 2008. The County's part-time Education position was vacated in September of 2009 and eliminated due to the economic situation. However, in November of 2009, the County Board approved an Energy Efficiency and Conservation Strategy (EECS) that included the creation of a full-time Environmental Education position. The EECS was approved by for grant funding by the DOE and Wyn officially started on Feb. 22, 2010.

Will County signed an agreement with Vintage Tech Recyclers, Inc. to service 11 permanent electronic recycling sites. Under the terms of the new agreement, manufacturers will pay the vast majority

of expenses. Although Public Act 95-0959 (Electronic Products Recycling & Reuse Act) has not resulted in the type of product stewardship intended, Will County was fortunate to have an established network of collection sites that made servicing our area attractive to a few processors. Nearly 1.1 million pounds of electronics were collected from the permanent sites in 2009. This figure does not include the County one-day collection or residential electronics collections done through other sources.

The County is also preparing for a series of Environmental Fair and Collection Events in April and May in recognition of the 40th Anniversary of Earth Day. The County will be partnering with Lewis University in Romeoville and the Lockport C.A.R.E. group to offer a one-day Electronic Collection; providing a mini-recycling collection and staffing a booth at an Environmental Fair in Frankfort; conducting a one-day Electronics Collection and staffing an education booth in Joliet as part of their GR2010 program; and holding an annual three-day Book Event at the Pilcher Park Nature Center in Joliet.

The County also recently announced a Landfill Gas-to-Energy partnership project with Waste Management at our Prairie View Landfill.

ILLINOIS SUSTAINABLE TECHNOLOGY CENTER

ISTC is accepting applications for the 2010 Governor's Sustainability Awards. The Center, in cooperation with the Office of the Governor, has honored organizations for their efforts in sustainability and pollution prevention since 1987. Any Illinois public or private organization is eligible to apply for an award.

Award categories include the Governor's Sustainability Award, which is given to companies and organizations that have not previously won the Governor's Sustainability or Pollution Prevention Award, and the Governor's Sustainability Award for Continuous Improvement. The Continuous Improvement category is for past award

winners only. Any organization that has previously won a Governor's Sustainability Award or Pollution Prevention Award will automatically be placed in this category.

Applications will only be accepted online and must be submitted by May 21, 2010 for consideration. For more information please contact Deb Jacobson at 630/427-5019 or visit <http://www.istc.illinois.edu/>.

EVERLIGHTS

EverLights, a Women's Business Enterprise (WBE) based in Chicago, has partnered with the state of Illinois to offer discounted pricing on the recycling of fluorescent bulbs and ballasts for state-owned or leased buildings as well as schools, public libraries and other public facilities.

The contract was established to provide a cost effective solution for the disposal of used fluorescent bulbs and ballasts so government facilities could be in compliance with the law. Mercury containing lamps and ballast are regulated as a universal waste under RCRA and must be properly disposed of. To help meet compliance, the State of Illinois expanded the program to include municipalities, schools, colleges, hospitals, prisons, children and family services, courts, and other government aided institutions.

Prior to pickup, the bulbs and ballasts must be packaged as a standard pallet stacked at least four feet high. EverLights can provide packaging supplies if needed. Federal law allows for bulbs and ballasts to be stored for up to one year before being recycled.

For further information or a copy of the contract, contact EverLights at 1-773-734-9873 or log onto their Web site at <http://www.everlights.com>.

County Control of Local Siting Approval

Submitted by Charles Helsten, Hinshaw & Culbertson, LLP

The Third District's recent holding in *County of Kankakee et al. v. PCB, City of Kankakee, Town & Country Utilities, and Kankakee Regional Landfill, LLC*, ("T&CII") endorses the authority of Illinois counties to exercise ultimate control over local siting approval. In its December 4, 2009 opinion in T&CII, the Third District of the Illinois Appellate Court issued a decision that on its face confirms the authority of Illinois county boards to act as master gatekeepers for the siting of new pollution control facilities anywhere within a county's physical borders. The road to the decision in T&CII has been torturous, and marks the latest in a litigation saga that has, from the beginning, served to clarify the law governing local siting approval in Illinois.

History of the Litigation

On March 13, 2002, the Applicant, Town & Country Utilities, Inc. ("Applicant" or "T&C"), filed an initial request with the City of Kankakee ("City"), in which T&C sought local siting approval for a new landfill facility. The City granted T&C's request for approval, but opponents petitioned for review before the Pollution Control Board ("PCB"). The PCB reversed the City's grant of siting approval, and held that T&C's Application failed to meet the "public health, safety and welfare" criterion of the Environmental Protection Act ("the Act"). T&C appealed the PCB decision to the Third District of the Appellate Court ("T&C I"), and the Appellate Court thereafter reinstated the City's grant of approval. Opponents then appealed that decision to the Illinois Supreme Court. Clarifying a prior ambiguity in the law, the Supreme Court held in T&C I that in a judicial appeal, the decision to be reviewed was the decision of the PCB, not the decision of the local siting authority. The Supreme Court further held that the PCB's decision that T&C's Application had failed to meet the statutory siting criteria under the Act was not against the manifest weight of the evidence, and the Supreme Court

therefore reinstated the PCB's decision. Meanwhile, in 2003, before the appeal in T&C I went to the Appellate Court, T&C filed a second siting approval request in which it again sought approval to site the proposed facility at the same location. A competitor, Waste Management, sought to dismiss the request on the basis that it was prohibited under the Act because it was substantially the same as a prior request for siting approval which had been disapproved within the preceding two (2) years (citing 415 ILCS 5/39.2(m), which prohibits re-filing a substantially similar application within two years of disapproval). The City rejected this argument, finding: 1) that T&C's 2002 and 2003 Applications for siting approval were not substantially similar, and 2) taking the further position that the first request had not been "disapproved" in the sense contemplated by section 39.2(m) of the Act, because the local siting authority (the City) had actually approved T&C's 2002 request. The City then granted approval for T&C's 2003 siting request. Once more, Objectors appealed the decision to the PCB, but this time they did not prevail. The PCB confirmed the City's decision, and held that the City correctly concluded that section 39.2(m) did not bar the 2003 request. Objectors, predictably enough, appealed to the Appellate Court.

On December 4, 2009, the Appellate Court held (in "T&CII") that the PCB's decision reversing City's decision on the 2002 T&C Application constituted "disapproval" as contemplated by section 39.2(m) of the Act, because the approval process under the Act constitutes both local siting approval (which it referred to as the "first step"), and also, where an appeal of local siting approval ensues, a "second step" in which the local grant of siting approval is reviewed by the PCB. Therefore, T&C's 2003 Application was held to be barred by Section 39.2(m). The Appellate Court further held that a remand was unnecessary because T&C's 2003 Application failed to satisfy another statutory siting criterion, inasmuch as it was inconsistent with Kankakee County's Solid Waste Management Plan.

The Implications of T&CII for Illinois Counties

The Appellate Court's holding that the Kankakee County Plan ("County Plan") barred the City from approving T&C's 2003 request for siting has important implications for local solid waste management plans. Under 415 ILCS 5/39.1, in a county that has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act ("LSWDA") or the Solid Waste Planning and Recycling Act ("SWPRA"), the local siting authority may not approve siting if the proposed facility would not be consistent with that plan. In the case of Kankakee County ("the County"), it had adopted a solid waste management plan which provided, in a 2003 Amendment, that no new landfill facilities were to be sited in the County unless they were contiguous to the existing Waste Management landfill located within the County. The 2003 Amendment to the County Plan stated on its face that it was intended to "dispel any question or ambiguity" about the County Plan, and to show that any facility not contiguous with Kankakee County's existing landfill would be deemed inconsistent with the County Plan.

In considering T&C's 2003 Application for local siting approval, the City Council had decided that the County Plan was not consistent with the LSWDA or the SWPRA. The City therefore declined to require that T&C's Application be consistent with the County Plan. In other words, in the City's view, it didn't matter that the proposed facility may not be contiguous to the existing landfill in Kankakee County. The Court observed that in the underlying PCB appeal, the PCB had refused to consider whether the City erred in finding that the County Plan was invalid. The Court further observed that the PCB previously held that it (the PCB) could not address allegations concerning the adoption of the County Plan in the underlying appeal of a local siting approval decision. The Court therefore issued its own interpretation

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County Control of Local Siting Approval (cont.)

of the County Plan. The Court concluded that the County Plan prohibited the City from approving T&Cs application, inasmuch as the proposed facility would not be located adjacent to the existing landfill. [1] Although T&C argued on appeal that use of the term "contiguous" in the 2003 Amendment to the County Plan should be interpreted to include sites that were not adjacent to, but were located within two miles of, the existing landfill, the Appellate Court flatly rejected that interpretation.

Future Impacts

In the wake of the Third Districts opinion

in T&CII, Illinois counties have received an apparent endorsement of their authority to prohibit units of local government from siting new landfill facilities except in areas that have been expressly approved by the County Board. The saga, however, continues, inasmuch as T&C has filed a Petition for Leave to Appeal the decision to the Supreme Court, to which Kankakee County responded on January 22, 2009.

[1] The Appellate Court in T&CII refused to entertain arguments that the County Plan improperly infringed upon home rule powers of an independent

local government jurisdiction, holding that T&C lacked standing to raise the argument. This point, therefore, is presumably still in doubt under Illinois law.

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Misc. News

ASSOCIATION NEWS

The Board of Directors has developed a new promotion we hope you consider. Any member who refers a non-member organization to join for 2010, we will reduce your annual conference registration fee by 50%. We hope you take advantage of this opportunity! Just have the new member download the registration form at <http://www.ilcswma.org/join> and write your organization's name at the bottom as the referring member. (Promotion open to full and affiliate member organizations. Offer applies to one individual from referring organization)

ILCSWMA NORTHERN REGION MEETING

A meeting of members in the Northern Region will be held on Thursday, April 8 from 10:30 am to 2:00 pm. The meeting will feature a discussion of general issues impacting our members in the region. The meeting will be held at 2550 N. Annie Glidden Road, DeKalb, IL 60115. Please RSVP to Marlin Hartman, Northern Region Representative (email address found on front page of newsletter).

MISSOURI WASTE MANAGEMENT CONFERENCE

Missouri Waste Control Coalition

(MWCC) is a 400-member not-for-profit organization. The statewide organization is a coalition of citizens, businesses and organizations which are concerned about the environment and the proper management and disposal of generated wastes.

Annually, the MWCC sponsors the Missouri Waste Management Conference, a conference that has run continuously since 1972, making it one of the oldest environmental conferences in the nation. The 2010 conference is scheduled for June 20-22 at the Lodge of the Four Seasons.

For more information, visit <http://www.mowastecoalition.org/>.

Model Solid Waste Ordinance

Submitted by Marlin Hartman

The ILCSWMA Board of Directors continues to make available model ordinances, RFPs and other documents that government agencies may need to function in the solid waste world. As many of you know, the "Documents" page on the ILCSWMA website not only has our newsletter, but has many of these documents available for your use. These documents include RFPs and contracts for various for waste collection services, and a Pollution Control Facility Siting Ordinance. The documents have been made available so ILCSWMA members do not have to "recreate the wheel".

The ILCSWMA Board created a sub-committee to create a Model "Solid Waste Nuisance Ordinance" to give guidance to our membership. The sub-committee was comprised of Steve Rypkema (Ogle), Don Terry (Jackson) and Marlin Hartman (Kendall). This document is complete and is now available in the "Document" area of the website. As with the other documents, it is designed to allow you to "copy and paste" desired sections, or to use in its entirety with only the government agency name inserted. While you should have your local attorney review it before adoption, care was taken to include the best parts of

various existing ordinances so it should be close to usable straight off the shelf (or, website).

This Model Solid Waste Ordinance has 39 definitions starting with "Abandoned Vehicles" through "Offal" and finishing with "Waste", how appropriate. This model ordinance gives direction on enforcement and appeals, as well as the types of administrative controls that would need to be addressed to function within your government agency.

We hope you can put the Model Solid Waste Ordinance to use in your community, if you do not have an existing ordinance.