

**STATE OF ILLINOIS
CITY OF MOLINE
BEFORE THE CORPORATE AUTHORITIES**

In Re:

**APPLICATION OF
LAKESHORE RECYCLING SYSTEMS, LLC
FOR SITING APPROVAL UNDER 415 ILCS 5/39.2
OF A NEW POLLUTION CONTROL FACILITY**

**REPORT OF HEARING OFFICER
RECOMMENDED FINDINGS OF FACT AND
RECOMMENDED CONDITIONS OF APPROVAL**

INTRODUCTION

Lakeshore Recycling Systems, LLC ("Applicant" or "LRS") has applied for local siting approval of a new municipal waste transfer station on approximately 10 acres in an industrial area located on 47th Street north of the intersection of 78th Avenue and 47th Street within the corporate limits of the City of Moline, Illinois (the "Property"). The Property upon which the proposed pollution control facility (the "Facility") is to be located is owned by the Metropolitan Airport Authority of Rock Island County (the "Authority") but the Applicant controls the Property under a 50 year lease agreement with the Authority and will operate the Facility. The Facility is anticipated to operate during the term of the lease or longer. The Application was filed on March 3, 2023. The Corporate Authorities of the City of Moline (the "City") is to render a decision on the Application in accordance with the criteria and procedures set forth in Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2) (the "Act") as supplemented by its own General Ordinance No. 3002-2023, enacting a new Article V in Chapter 15 entitled "Pollution Control Facility Siting" (the "City's Ordinance") establishing rules and procedures for pollution control facility siting. Among

the procedures set forth in the Act and the City's Ordinance is the requirement that the City conduct a public hearing ("Hearing") on the Application, accept public comment, and make a formal decision on the Application within 180 days of the date of filing (by August 30, 2023). The City opened the Hearing on the Application on June 27, 2023, and it continued on June 28, 2023. In accordance with the procedures and other terms and provisions of the Act and the City's Ordinance, I reviewed the Application and initial filings. The following parties appeared at the Hearing by and through counsel:

The Applicant ("LRS"), represented by George Mueller;

Group O, which is a nearby business, represented by Brett Marshall;

The City of Moline Staff ("City Staff"), represented by Ann Zwick; and

The City of Moline Corporate Authorities ("City Council"), represented by its corporate counsel, David Silverman.

During the Hearing, I admitted the Application and testimony and exhibits from expert witnesses called by the Applicant in support of the Application. I also admitted exhibits and the testimony from a witness called by Group O in opposition to the Application.¹ The Hearing was transcribed by a court reporter and is part of the record.

In addition to evidence and testimony, oral public comment was received during the Hearing proceedings, and written public comment has been received by the City for an additional 30 days, from March 3, 2023 through (and including) July 28, 2023. All timely-filed public

¹ The only witness called by Group O was its CEO of 18 months, Kevin Kotecki who is not an expert relevant to any of the nine siting criteria set forth in the Act. He testified that he has never even visited a transfer station. Although I gave him a lot of leeway in his testimony, it was mostly personal opinions and pure speculation from a lay person's perspective with very few relevant facts and no substantive analysis regarding any of the nine siting criteria. In fact, it was apparent that he did not even understand how to properly evaluate the nine criteria. He did not nor did he have the expertise to impeach or rebut any of the testimony of the Applicant's experts. I find that his testimony and his personal opinions carry no evidentiary weight in the analysis and in the evaluation of compliance or noncompliance with any of the nine siting criteria and further find the Applicant's highly qualified expert witnesses to be far more thorough, credible and persuasive. In conducting the Hearing and providing this Report, I weighed the evidence, assessed the credibility of the witnesses, and I resolved all conflicts in the testimony in favor of the Applicant.

comments are also part of the record herein and have been reviewed by me. "Comment" is distinguished from "testimony" in that "comment" is not provided under oath and is not subject to cross examination and, therefore, entitled to less weight than testimony. There was public comment received in support of and opposing the Application.

I declared the Hearing closed on June 28, 2023.

I received proposed Conditions of Approval from City Staff along with City Staff's proposed Findings of Fact and Conclusions of Law. I received argument in favor of siting approval and Proposed Findings of Fact and Law from the Applicant; I received argument in opposition to siting approval as well as Proposed Findings of Fact and Conclusions of Law from Group O.

RECOMMENDATION

For the reasons set forth below, I find that the City of Moline has jurisdiction over the Application, and my recommendation to the City is to impose Special Conditions (appended to my proposed Findings of Fact and Conclusions of Law as Exhibit A) and with those Special Conditions approve the Application as satisfying the siting criteria of Section 39.2. More specifically, I find that the Application as filed, and the testimony concerning the Application as filed, has established that the proposed Facility satisfies all of the criteria for local siting approval set forth in Section 39.2 of the Act provided that the Applicant complies with the Special Conditions and with the compliance by the Applicant with those conditions, the proposed Facility does satisfy all of the criteria for local siting approval.

JURISDICTION

I find that the Applicant complied with all notice requirements of Section 39.2 (b) and (d) of the Act and Section 15-5102 of the City's Ordinance concerning the notice requirements prior to the Hearing on the Application. No objections were filed concerning compliance with Section 39.2 (b) or (d) or Section 15-5102. There was no evidence to the contrary, and no objections were filed concerning compliance with the City's Ordinance, and I find that the Applicant complied with all applicable requirements of the City of Moline.²

Accordingly, I find that the City has jurisdiction to consider the statutory criteria of Section 39.2.

² Section 15-5100 (8) of the City's Ordinance defines a "Pollution Control Facility" broadly to encompass "any waste storage site, sanitary landfill, waste disposal site, waste transfer station or waste treatment facility but in no event will a Pollution Control Facility include any type of hazardous waste facility or waste incinerator facility."

Under Section 15-5105, the content of the Application for a Pollution Control Facility shall contain under subsection (i) "a description of the geologic and hydrogeologic character of the site including, but not limited to, soil boring samples obtained, groundwater flow data, identification of the uppermost aquifer, and groundwater monitoring plans" and under subsection (j) a site plan showing details of the proposed Facility including, but not limited to:

- (1) Cross sections for a Pollution Control Facility;
- (2) All existing wells within 1,320 feet of the footprint of the site for a Pollution Control Facility; and
- (4) Soil boring sample locations on or within 200 feet of the site for a Pollution Control Facility.

This type of information is generally germane when the Pollution Control Facility is a landfill or disposal facility and is not applicable when the Pollution Control Facility is a solid waste transfer station, and it was not included in the Application filed by LRS. As such, pursuant to Section 15-5108 of the City's Siting Ordinance, I find good cause to and hereby waive the requirement for those items and any others unique to disposal sites to be a part of the Application.

THE SECTION 39.2 CRITERIA

These proceedings are governed by Section 39.2 of the Environmental Protection Act, 415 ILCS 5/39.2, which sets forth the exclusive siting procedures for pollution control facilities in Illinois. Section 40.1 of the Act and case law require that siting proceedings and the decision making be conducted in accordance with the requirements of fundamental fairness. The Application must contain sufficient details of the proposed facility demonstrating that it satisfies each of the nine criteria by a preponderance of the evidence. *Land & Lakes Co. v. Illinois Pollution Control Board*, 319 Ill.App.3d 41, 743 N.E.2d 188, 191 (3d Dist. 2000). If the Applicant fails to establish any one of the criteria, the Application should be denied. *Waste Management v. Pollution Control Board*, 175 Ill.App.3d 1023, 520 N.E.2d 682, 689 (2d Dist. 1988).

The Act requires that the Applicant for local siting approval prove compliance with each of nine different criteria (or alternatively demonstrate that they do not apply) and local siting approval shall be granted if the proposed facility meets each of those criteria. As a matter of law, once an Applicant makes a *prima facie* case on a criterion, the burden of proof shifts to the opponents to rebut the Applicant's case. *People v. Nuccio*, 43 Ill.2d 375, 253 N.E. 2nd 353 (1969). In order to rule against an Applicant on any criterion, the decision maker (the City Council in this case) must find competent rebuttal or impeachment evidence in the record. *Industrial Fuels and Resources v. Illinois Pollution Control Board*, 227 Ill.App.3d 553, 592 N.E. 2d 148 (1st Dist. 1992).

The Applicant called expert witnesses to offer evidence as to the statutory siting criteria. Counsel for Group O, as well as counsel for the City Staff, were allowed to cross-examine witnesses and present its own evidence. As noted previously, Group O called one witness who

was not an expert witness in opposition. City Staff cross-examined some of the witnesses but did not present any of its own. Public comment was allowed at the conclusion of the evidence on June 28, 2023. No one wishing to give oral public comment was denied or restricted. There was no objection about the way the Hearing was conducted.

The basis and rationale for my findings on each criterion is set forth below.

1. *The Facility is necessary to accommodate the waste needs of the area it is intended to serve.*

The first criterion found in Section 39.2(a)(i) of the Act is that “the facility is necessary to accommodate the waste needs of the area it is intended to serve.” Section 39.2(a)(i), however, does not provide a specific formula or test to establish whether a facility is necessary. Case law has provided some guidance as to its requirements and makes it clear that under this standard, a transfer station does not have to be necessary in absolute terms, and the Applicant is not required to show absolute necessity in order to satisfy Criterion 1. *Waste Management of Illinois, Inc. v. Pollution Control Board*, 234 Ill.App.3d 65, 69, 600 N.E.2d 55, 57 (1st Dist. 1992). In addition, transfer stations are not like landfills, and the determination of (and the proof to support) whether they are needed is fundamentally different. The Applicant must show that the transfer station is reasonably required by the waste needs of the area it is intended to serve, including the area's waste production and disposal capabilities. *Id.*

It is well settled that the Applicant defines the intended service area. *See, Metropolitan Waste Systems, Inc. v. Pollution Control Board*, 201 Ill.App.3d 51, 55 (3rd Dist. 1990). In this case, the proposed service area for the Moline Transfer Station consists of a 15-mile radius around the Facility and all of Rock Island County. This service area generally encompasses the Quad Cities metropolitan area and, in addition to Rock Island County, includes portions of Henry

County, Mercer County, Muscatine County (Iowa) and Scott County (Iowa). No one has objected to the intended service area as defined by LRS.

The Applicant presented the testimony of Phillip Kowalski who is a senior planner with Aptim Environmental & Infrastructure, LLC (“Aptim”) and has over 35 years’ experience in the solid waste industry. Mr. Kowalski has participated in needs assessments for approximately 40 solid waste facilities and worked on approximately 50 solid waste management plans in Illinois and throughout the country. Mr. Kowalski gave a description of the overall Facility, the proposed service area that will be served by the Transfer Station, the quantities of waste generated in the service area, the service area solid waste facilities and their capacity. His needs analysis calculated the amount of waste generated by the service area and that requires disposal. In order to estimate the amount of waste that will be disposed, he provided an analysis of historical population and landfill disposal quantities (as reported by landfills to regulatory agencies). For Illinois counties, historical disposal data was available for the period 1996 through 2021. For Iowa Counties, historical disposal data was available for the period 1999 to 2021. He explained that the service area disposes of large quantities of waste and that disposal quantities have been increasing at a faster rate than population which means that per capita disposal rates have generally increased. He reviewed the location and life expectancy of existing landfills within the service area and in neighboring and proximate counties to the service area. There are two active landfills located within Rock Island County (Rock Island County had three operating landfills until 1999) with a combined 23 years of capacity, one of which will reach capacity within 11 years. The third landfill located in the service area is located in Scott County, Iowa, which has 52 years of remaining landfill capacity, but the tipping fees at Iowa landfills are higher than at Illinois landfills, as evidenced by the large quantities of Iowa waste that are imported into Illinois landfills, and no

Illinois waste is being disposed of in this Iowa landfill. On average, it takes nine years to develop new landfill capacity for a landfill that successfully obtains local siting approval, which is no guarantee. All other landfills in the general region would require transfer stations to access.

In 2021, the service area disposed of 358,000 tons of waste. The landfills in the service area are also allowed to import waste from outside the service area, and in 2021, they imported a total of 449,000 tons of waste. The Chicago metropolitan area also has decreasing landfill capacity and is exporting significant quantities of waste to other regions of Illinois, including IEPA Region 3 which includes Henry, Mercer and Rock Island counties. Regional landfills serving the Chicago metro area have only 12 years of remaining capacity. Demand for solid waste handling capacity in the service area is thus growing due to increasing waste disposal rates and continued importation of waste.

Mr. Kowalski testified that while population in the proposed service area is projected to be generally flat, the number of households is projected to grow over the next 40 years, and historical trends indicate that the amount of waste disposal has been growing faster than population, and that disposal quantities in downstate Illinois counties and Iowa counties have been steadily increasing over time. There are no transfer stations in the proposed service area, and a transfer station would be needed to access landfills outside the proposed service area. In Mr. Kowalski's opinion, the Moline Transfer Station will ensure that the City of Moline, county, and entire service area will have access to additional landfills to manage their waste in the future.

Group O attempted to refute Mr. Kowalski's testimony by pointing to a Rock Island County Solid Waste Management Agency ("RICWMA") Resolution which was adopted at its meeting on April 26, 2023 ("Resolution") which stated that the proposed Moline Transfer Station is not consistent with the Rock Island County Solid Waste Management Plan's requirement of a need for

Rock Island County due to "sufficient, existing landfill capacity."³ Mr. Kowalski testified, and the RICWMA April 26, 2023 meeting minutes indicate, that the City of East Moline had submitted a letter to the RICWMA on April 25, 2023 stating that there is adequate landfill disposal capacity with the existing facilities in the region when considering expansion land capacity at the Upper Rock Island County Landfill, which could be expanded to 85 years or the year 2108. In Mr. Kowalski's opinion, the potential expansion capacity of the Upper Rock Island County Landfill and adjacent, dormant landfill owned by the City of East Moline cannot be considered because siting approval has not been applied for or obtained, and any additional capacity would be speculative. Mr. Kowalski also testified that he attended the RICWMA April 26, 2023 meeting, and there was no discussion on the merits of the siting Application or extensive discussion of the facts contained in the Application. Consistent with Mr. Kowalski's testimony, there is no indication in the minutes of the RICWMA April 26, 2023 meeting that the RICWMA performed any type of needs analysis or heard sworn testimony in making its determination. Group O presented no expert witnesses and no one from the RICWMA testified at the Hearing.

Mr. Kowalski testified that the RICWMA Resolution is inconsistent with his testimony and the evidence in the siting Application, which supports a need for the Facility. He observed that, in fact, the April 25, 2023 letter from the City of East Moline to the RICWMA opposing LRS's Application actually supports the need for the Moline Transfer Station. East Moline's opposition to the Transfer Station is predicated on a "potential" expansion of the Upper Rock Island County Landfill, which is located in East Moline and which is running short of capacity. The fact that the City of East Moline is contemplating a possible expansion of the landfill indicates that East

³ It should be noted that the RICWMA Resolution was filed with the City Clerk similar to other public comments, but it was never admitted into evidence at the hearing. Minutes of the meeting adopting the Resolution were admitted as Group O Exhibit #4.

Moline concurs with LRS that there is a need for additional solid waste handling capacity in Rock Island County and the service area. Mr. Kowalski noted that any demonstration of need for an expansion of the landfill would necessarily rely on many of the same market factors which underlie the need for the Moline Transfer Station.

As noted, Mr. Kowalski was the only expert who conducted an independent needs analysis in the service area. I find his testimony credible and give little weight to the RICWMA Resolution and the public comments referenced by Group O in the Proposed Findings of Fact and Conclusions of Law with respect to the issue of need. Furthermore, the Resolution is not in evidence, and it is not a finding of fact but rather a recommendation on the transfer station siting proposal, and it is not binding on the City. Simply put, a Resolution filed with the Clerk's office which is devoid of facts and analysis is not sufficient in the opinion of the Hearing Officer to counter the well reasoned and credible findings and opinions of Mr. Kowalski that a need for the transfer station exists.

Moreover, although Group O alleges that LRS failed to prove that the service area lacks capacity, a point I disagree with, Group O did not address the other relevant factors and variables in the need calculus.

In *Will County v. Village of Rockdale*, 2018 IL. App (3d) 160463, 121 N.E.2d 468, 484 (3d Dist. 2018), the Appellate Court held that Criterion 1 is not determined exclusively by reference to the traditional capacity versus waste generation analysis but that the "waste needs of the area" could include other relevant factors such as improving competition, benefits through the host agreements, operational concerns and hours, and positive environmental impacts.

Mr. Kowalski testified about transfer station economics and the efficiencies that the Facility will provide. He explained how this Facility will enhance competition for solid waste services. Mr. Kowalski explained that among the main benefits of transfer stations is reducing the environmental impact of garbage collection. The well-known purpose of consolidating waste from collection vehicles into more efficient transfer trailers is to accomplish more economical shipment to distant disposal sites. Consolidating small loads from the collection vehicle into larger transfer vehicles reduces hauling costs by enabling collection crews to spend less time traveling to and from landfills and more time collecting waste from residents and businesses. This also reduces the cost to operate the collection vehicles because compared to landfills, collection vehicles can get in and out of a transfer station faster to tip which will reduce fuel consumption and collection vehicle maintenance costs, plus produces less overall traffic, air emissions and road wear. In addition, the transfer station will provide access to lower cost disposal to haulers such as LRS who can run a smaller collection fleet to collect the same amount of waste and less wear and tear on the vehicles. The Facility will also enhance competition for solid waste services within the market, which is considered to be a highly concentrated market according to U.S. Department of Justice guidance. He explained that the transfer station will generate new revenue for the City of Moline in the form of host fee payments, and it will provide a host fee payment to the Metropolitan Airport Authority of Rock Island County. He noted that a citizen drop-off facility will be provided at the transfer station to service City residents and that the facility will be available at no cost to the City as a location for the City to host special collection events for household hazardous waste and electronics waste. In addition, the transfer station and associated hauling yard will provide up to 31 new jobs which will add to the local economy.

There is no question that these interrelated factors of transportation, environmental and economic matters are appropriate for the City Council to consider in its assessment of LRS's needs analysis and that they are completely germane to Criterion 1. *See, Waste Management of Illinois, Inc. v. Pollution Control Board*, 123 Ill.App.2d 1075 at 1087-88 (2nd Dist. 1984); *Waste Management of Illinois, Inc. v. IEPA*, 122 Ill.App.3d 639 (3rd Dist. 1984). Promoting competition is also part of the needs evaluation. *See, Gallatin National Company, Petitioner v. The Fulton County Board and The County of Fulton, Respondents*, 1992 WL 142713 (Ill.Pol.Cont. Bd.), 16. The testimony of Mr. Kowalski that the remaining capacity at the Upper Rock Island landfill is only two (2) years greater than the typical time to bring new disposal capacity online shows the urgent need for the new Facility, and his testimony demonstrated the reasonable convenience of establishing it.

Other than Mr. Kowalski, no other expert witness provided testimony as to whether the proposed Facility is necessary to accommodate the waste needs it is intended to serve. Group O argues that Mr. Kowalski's testimony should not be relied upon by the City Council because Mr. Kowalski is not a credible witness. However, instead of attempting to find areas where Mr. Kowalski was mistaken or deceitful in this hearing, Group O spends its time arguing that because he testified a certain way in other past hearings, he will always find that a transfer station is needed. On the contrary, I find that his testimony was highly credible, supported by the facts and essentially un rebutted by any other competent evidence. His analysis was clear and persuasive, and I find no reason to determine that his testimony in this hearing was untrue or deceitful.

In this case, there was more than enough merit in the Application, testimony and public comments to support a decision that the Applicant met its burden of proof of demonstrating that

the transfer station is reasonably required by the waste needs of the proposed service area, including consideration of its waste production and disposal capabilities. I find that Criterion 1 is satisfied.

2. *The Facility is so designed, located, and proposed to be Operated that the Public Health, Safety and Welfare will be Protected.*

I find that Criterion 2 is satisfied through the imposition of--and compliance by the Applicant with--Special Conditions which are appended to the Proposed Findings of fact and Conclusions of Law as Exhibit A.

Like Criterion 1, Criterion 2 has been the subject of litigation and guidance is available from the courts. To prove Criterion 2, the Applicant must demonstrate that the proposed Facility is designed, located and proposed to be operated to protect the public health, safety and welfare. 415 ILCS 5/39.2 (a) (ii). This includes a demonstration that the Facility is not flawed from a public safety standpoint and that its proposed operations are neither substandard nor unacceptably risky. *Industrial Fuels and Resources, Inc. v. Illinois Pollution Control Board*, 227 Ill.App.3d 533, 592 N.E.2d 148, 157 (1st Dist. 1992).

Devin Moose, who planned and designed the Facility, is a professional engineer with 40 years of experience in solid waste engineering testified for LRS on this criterion. He is a diplomat of the American Academy of Environmental Engineers who has served as lead engineer for over 20 transfer station siting proceedings in Illinois, representing both the public and private sectors. He is very highly qualified and well regarded.

Mr. Moose provided a detailed explanation of the proposed Transfer Station's location, design, and operational features. He pointed out that the local siting Hearing is only the first in a lengthy series of regulatory steps that an applicant must successfully complete. These include

getting an Illinois Environmental Protection Agency (“IEPA”) developmental permit, local building permits, and finally an IEPA operating permit. Only then can the facility start to receive and transfer waste.

The siting Application addressed the site’s design, providing drawings and tables. Although Section 22.14 (a) of the Act prohibits locating transfer stations within 1,000 feet of any dwelling or property zoned for residential use, it is not one of the siting criteria, and the Application explicitly stated there is no such properties or dwellings. On this basis, the site is sufficiently distant from a residential-zoned site and from a dwelling.

Mr. Moose testified that the Application met the location standards (wetlands, archeological or historic sites, threatened or endangered species, wild and scenic rivers and the airport). The site is outside the 100-year floodplain as defined by the Federal Emergency Management Agency, with no documented wetlands (other than wetlands surrounding Case Creek on the southwest side of the Property which will not be disturbed in the development of the Facility). There is no significant historic, architectural or archaeological resources located within the area of the proposed Facility. There are no threatened or endangered species, or protected natural areas that will be adversely impacted by the proposed Facility, and there are no rivers designated for the protection of the Wild and Scenic Rivers Act within the proposed Facility watershed.

Due to its proximity to the Quad City International Airport (2,614 feet from the nearest runway), the Facility was reviewed to ensure that it is compatible with airport operations. The Federal Aviation Administration (FAA) Advisory Circular 150/5200-33C ("AC") provides guidance on certain land uses that have the potential to attract hazardous wildlife on or near public-use airports. Under Section 2.2.4 of the AC, fully enclosed trash transfer stations that are

not located on airport property or within the Runway Protection Zone ("RPZ") are considered compatible with safe airport operations. The Facility's design and plan of operations meets the FAA definition of a fully enclosed trash transfer station. The Facility is not located on airport property or within the RPZ. The Application demonstrates that the proposed transfer station building will not penetrate the most restrictive imaginary airspace surface above the site. As such, the proposed Facility will not exceed obstruction standards and would not be a hazard to air navigation. The proposed Facility design and operations, including the bird control plan, have been reviewed by the Quad Cities International Airport. Correspondence indicating that the proposed Facility is compatible with AC No. 150/5200-33C and safe airport operations is provided in the Application in Appendix K. LRS has agreed to comply with the Siting Conditions, including that the Moline Transfer Station shall meet the Federal Aviation Administration's definition of a fully enclosed transfer station per FAA Advisory Circular (AC) No. 150/5200-33C and shall otherwise be operated in accordance with all applicable FAA Advisory Circulars. Imposition and compliance with these Special Conditions are essential to a finding that Criterion 2 can be satisfied. With the imposition of the conditions set forth in that letter, the Airport Authority concluded that the proposed Facility did not pose a threat to the safety of the Airport. No expert testimony was introduced that challenged that determination by the Airport Authority.

Mr. Moose also described the proposed site design and the proposed operations. The Facility as proposed will handle a maximum of 520 tons of material per day composed of 400 tons of municipal solid waste, 80 tons per day of hydro-excavation waste, 25 tons of source-separated recyclables and 15 tons of landscape waste. While the Facility is proposed to be sited and permitted to accept landscape waste and source separated recyclables, it is not anticipated that

the Facility will initially accept either stream of waste. Construction and demolition debris may also be accepted, though it will be considered and treated as municipal solid waste.

Mr. Moose testified as to the fact that the transfer building will be a "fully enclosed" Facility (which, as noted, is an important requirement to protect the airport) and testified as to the truck movements on site, the number and function of "spotters," the operation of the entrance doors, the movements and operations of the transfer trailers, and the movements and operations of the front-loaders on the tipping floor. Mr. Moose showed a computer animated video showing portions of the Facility in operation.

Mr. Moose described the stormwater management plan for the proposed Facility and testified that the stormwater will be managed in accordance with the City of Moline Stormwater Ordinance. Prior to development of the transfer station, demonstration will be made to the City of Moline that the proposed development will function in accordance with the City of Moline Stormwater Ordinance and authorization will be obtained from the City. The stormwater management features may be modified, as requested, based on comments from the City of Moline during permitting. There was no substantive challenge to the stormwater management plan in place or other location, design and operational plans except for the imposition of certain special conditions proposed by City Staff which would improve the Facility and add protections for public health, welfare and safety. The Applicant has agreed to each of those Special Conditions.

The Application and Mr. Moose's testimony also established that the plan of operations for the Facility includes waste acceptance, load checking and waste handling procedures; site access and interior traffic circulation; nuisance control procedures (litter, odor, vector, dust, noise); staffing and equipment requirements; cleaning procedures; fueling procedures;

recordkeeping procedures; community relations and complaint resolution procedures; wastewater generation and handling procedures; and a closure plan. In addition, the Facility will only accept non-hazardous municipal solid waste, hydro-excavation waste, source separated recyclables, and landscape waste, and the Facility will implement hauler pre-approval, waste screening procedures and random load checking to detect and prevent the acceptance of unauthorized wastes. Ingress and egress from the Facility will be provided by two, one-way access drives located on the east side of the property along 47th Street. Interior vehicular circulation will follow a counterclockwise circular pattern to reduce internal traffic conflict. No personal vehicles shall be permitted west of the transfer station building.

The transfer station building includes automatic overhead doors to allow vehicular access to and from the tipping floor. The automatic overhead doors will be kept closed, except for emergencies and to allow vehicles to enter and exit the building. The overhead doors are high-speed automated doors that open and close in about 10-15 seconds. All waste collection vehicle unloading and transfer trailer loading operations will occur within the transfer station building. All transfer trailers will be tarped inside the transfer station building. All waste will be removed from the tipping floor by the end of the operating day. The transfer station building will maintain negative air pressure and ozone will be used to treat/filter the exhaust ventilation to eliminate the odors. All hydro excavation waste solidification unloading and loading operations will occur within the hydro excavation solidification building. All hydro excavation waste solidification materials will be stored inside the hydro excavation waste solidification building.

Other than Mr. Moose, no other expert witness provided testimony as to whether the proposed Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

I find Mr. Moose's testimony at the Hearing, where he rendered an expert opinion that the proposed Facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected from an engineering and operating standpoint to be well reasoned, thorough, persuasive and largely un rebutted. The cross examination on behalf of Group O did not undermine any of Mr. Moose's conclusions or the information contained in the Application. I find that the Application and testimony, with the Special Conditions in place, and compliance with the requirements set forth in the Host Community Agreement, demonstrated that the Facility could safely handle the proposed maximum tonnages per day. The Special Conditions are appended to the Proposed Findings of Fact and Conclusions of Law as Exhibit A. The Host Community Agreement in Appendix C of the Application.

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 Surrounding Property.*

The Applicant called Carrie Hansen, Director of Planning and Government Services at Schoppe Design Associates, Inc ("SDA"), who testified that SDA was retained by LRS to perform an independent analysis to determine if the proposed Moline Transfer Station satisfies the requirements of Criterion 3 of Section 39.2(a) of the Act, such that the Transfer Station is located as to minimize incompatibility with the character of the surrounding area. Ms. Hansen has over 35 years' experience in land use and transportation planning for both public and private sectors. She is an expert in the field of land use planning and has prepared and overseen the preparation of numerous comprehensive plans and zoning ordinance updates. Her testimony at the Hearing was credible.

The study performed by SDA evaluated the various planning issues that are commonly utilized to make determinations of the land use compatibility. Land use and zoning were evaluated

within a one-and-one-half-mile general study area, and a second more targeted 1/2-mile study area was analyzed to focus on uses related to the Quad City International Airport. The documents and research material supporting the work of SDA includes aerial photography and the zoning ordinances, zoning maps, and comprehensive plans for the City of Moline, the Village of Milan, and Rock Island County. Current Rock Island County GIS information and the City of Moline Airport South District Development Plan were also reviewed and evaluated. SDA conducted field investigations and took photographs of the Subject Site and its environs in the Spring of 2021 and 2022 to confirm land uses and become familiarized with the site and its surrounding area. A detailed site investigation was made within the 1/2-mile context of the airport related uses near the proposed site and in the general context of the one-and-one-half-mile study area.

The proposed Facility is located on a 10-acre parcel within the Moline Business Park Redevelopment Project Tax Increment Financing (TIF) District for the Moline Business Park Redevelopment Area, adjacent to the Quad Cities International Airport in the I-2 General Industrial Zoning District.

In addition to land use and zoning, SDA also reviewed the design, engineering, and operational features of the proposed Facility as the effective utilization of these elements contributes to minimizing incompatibility of the use with the character of the surrounding area.

In the preparation of its report, SDA analyzed zoning maps, zoning ordinances, land use patterns, aerial photographs, site photographs and surveyed land uses within the study areas to determine the character and trend of land development in the area surrounding the proposed Facility.

Based on these reviews and her expertise, experience and the land use analysis and findings, it is the expert opinion of Ms. Hansen that the proposed Lakeshore Recycling Systems

Moline Transfer Station minimizes the impact on the character of the surrounding area and, therefore, satisfies the first part of Criterion 3 of Section 39.2(a) of the Act. I concur. Group O's cross-examination did not, in my opinion, challenge or undermine any of the conclusions or the opinion of Ms. Hansen in any meaningful way.

The Applicant called Michael S. MaRous, a licensed Illinois real estate appraiser (and in five other states) and a member of the Appraisal Institute (and past president of its Chicago chapter) to testify regarding Criterion 3 as it pertains to minimizing the effect on the value of surrounding property. There is no question that Mr. MaRous is a highly regarded expert in the field of real estate appraisal who has received a number of honors and advanced designations. He has vast experience who has done numerous market impact studies, including several involving waste facilities.

Mr. MaRous submitted a Market Impact Analysis of the proposed transfer station for purposes of analyzing impact on the values of surrounding property. He testified that he took into consideration the nature of the immediate area, including industrial land values in the area. Utilizing a matched pairs analysis, he also reviewed and has analyzed data regarding sales of industrial buildings and sites that are located proximate to a transfer station located just west of Chicago O'Hare International Airport and has compared them to sales of industrial buildings and sites that are located in the same area, but that are not located proximate to the transfer station.

Based upon the analysis of the three matched pairs he presented, neither improved nor land values are negatively affected based upon proximity to the transfer and recycling Facility located on the east side of Busse Road in the far northwest area of Chicago, just west of Chicago O'Hare International Airport. Therefore, he concluded that assuming the siting request and other necessary approvals were to be obtained, the proposed Moline transfer station, which similarly will be sited

within an industrial park adjacent to the Quad City International Airport, will be located so as to minimize the effect on the value of surrounding property.

He opined that as a result of the market impact analyses undertaken, it is his opinion that the proposed transfer station minimizes the effect, if any, on the market value of the properties located in this area. In this regard, he took into consideration (1) the industrial nature of the immediate area surrounding the proposed transfer station site, which includes Quad City International Airport, which has existed in the area for a significant period of time and is anticipated to remain in use for the foreseeable future; several light-industrial uses; and vacant, industrial-zoned parcels that are being utilized for agricultural purposes; (2) the limited demand for new industrial development in the Illinois portion of the Quad Cities industrial market generally and in the Quad City Industrial Airpark more specifically; and (3) the proposed transfer station, including in regard to design, to location, and to operation, *e.g.*, unloading and loading of the tarped vehicles will take place within the fully enclosed transfer station, which will feature automatic doors that will open and close as vehicles enter and leave; access drives and “interior circulation routes” will be paved in order to minimize the generation of dust; and several odor protocols will be implemented.

In his testimony at the Hearing, Mr. MaRous rendered an expert opinion that the proposed Facility is so located as to minimize the effect on the value of the surrounding property; that the proposed Facility will have no negative property value impact on properties in the immediate area or on the neighboring properties; that the proposed Facility will have a positive effect on industrial property values in the area; that the proposed Facility is the highest and best use of the site; and that the proposed Facility would be a significant positive for the development of new business in the area.

Other than Ms. Hansen and Mr. MaRous, no other expert witness provided testimony as to whether the proposed Facility is so located as to minimize in compatibility with the character of the surrounding area and to minimize the effect on the value of surrounding property.

The cross examination by Group O of the Applicant's two expert witnesses did not undermine their credibility or any of the conclusions reached by them. I found both of those experts to be very credible and persuasive, and I find that Criterion 3 is satisfied.

Group O presented no expert witness and provided nothing in the way of contradicting or impeaching evidence. Instead, Kevin Kotecki, the CEO of Group O, gave testimony on his personal feelings about the proposed Facility and what he perceives the negative impact will be on Group O's business and personal property by the siting of such a Facility. It was mostly pure speculation on his part with unsupported conclusions. In any event, as noted earlier, Mr. Kotecki is not an expert, and he did not produce any empirical data to support his testimony, and he did nothing to rebut the testimony of the Applicant's experts other than to conclude that he questioned and/or did not believe their testimony. He loosely referred to the "experts" that supposedly advised him on the potential loss to his "property value" but he refused to name even one of them or to give any details of the actual amount of the potential loss or how it was calculated which further diminishes his own credibility. Mr. Kotecki admitted Group O does not own the property where its corporate headquarters is located and there are intervening lots between the proposed Facility and the Group O parcels.⁴ I find that his testimony has no probative value on this siting criteria.

⁴ The public comments by Ben Leischner, the executive Director of the Metropolitan Airport Authority of Rock Island County who owns the property Group O leases should be noted here. He admitted to being skeptical at first and dismissive of transfer stations, but he said he asked questions, did research and satisfied himself that an indoor transfer station does not pose any risk to aviation and that LRS is a quality operator. Mr. Leischner said he relied on the data, he consulted experts, and now that he has done research, he is comfortable with the proposal.

4. *The Facility is located outside the Boundary of the 100 Year Floodplain.*

I find that the Applicant demonstrated that the Facility meets Criterion 4.

The testimony of Devin Moose and other uncontradicted evidence entered in the Record supports the finding that the Facility meets this Criterion. No challenge to this Criterion has been filed.

5. *The Plan of Operations for the Facility is designed to Minimize the Danger to the surrounding Area from Fire, Spills and Other Operational Accidents.*

Devin Moose also testified on this criterion as it is closely related to Criterion 2. Mr. Moose is also a highly regarded expert in the field of solid waste transfer station operations. Other than Mr. Moose, no other expert witness provided testimony as to whether the proposed plan of operations for the proposed Facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents. Mr. Moose's testimony at the Hearing on this Criterion was not rebutted and no evidence was submitted to the contrary. He referred to the detailed Health and Safety Plan provided in Appendix O of the Application that includes procedures that will be implemented to minimize the danger to the surrounding area from fire, spills or other operational accidents, and addresses fire control and prevention measures, spill control and prevention measures, accident prevention, employee training, risk management and operational contingency plan. Based upon his experience and testimony, plus the more detailed procedures contained in the Application, Mr. Moose rendered an expert opinion that the proposed plan of operations for the proposed Facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.

I find that the Applicant demonstrated that the Facility meets Criterion 5 but I also find that the testimony of Mr. Moose and the detail procedures contained in the siting Application support

the imposition of and compliance with Special Conditions to further improve the Plan of Operations and minimize dangers to the surrounding area.

6. *The Traffic Patterns to and from the Facility Are So Designed as to Minimize the impact on Existing Traffic Flow.*

I find that the Applicant demonstrated that the proposed Facility meets Criterion 6 but also find that the Siting Application and testimony support the imposition of and compliance with the Special Conditions.

This criterion does not relate to traffic noise or dust, nor does it relate to the possible negligence of truck drivers. *File v. D & L Landfill, Inc.*, 219 Ill.App.3d 897, 905 (5th Dist. 1991). “The operative word is ‘minimize’ and it is recognized that it is impossible to eliminate all problems.” *Id.*

The Applicant called Michael A. Werthmann of Kenig, Lindgren, O’Hara, Aboona, Inc. (KLOA, Inc.), who is a registered professional engineer and certified professional traffic operations engineer with more than 33 years of traffic engineering experience for both the private and public sectors. Mr. Werthmann has testified on over 25 solid waste related projects. Mr. Werthmann is an expert in the field of traffic engineering, and his testimony was highly credible. In his testimony, Mr. Werthmann rendered an expert opinion that the traffic patterns to and from the Facility are so designed to minimize the impact on existing traffic flow. He performed a three-phase traffic study. First, he looked at existing conditions, including physical and operating characteristics of the nearby roadway system. Secondly, he looked at Facility traffic characteristics, and determined the type and volume of traffic generation by the Facility. Then he analyzed the impact of the Facility generated traffic on the roadway system.

The area roadways include 78th Avenue (Indian Bluff Road), which is generally an east-west, collector road that has one lane in each direction. At its signalized intersection with Rock Island-Milan Parkway, 78th Avenue has a separate left-turn lane, a through lane, and a separate right-turn lane on both approaches. At its signalized intersection with U.S. Route 150, 78th Avenue has a separate left-turn lane, a through lane, and a separate right-turn lane on the eastbound approach and a shared left-turn/through/right-turn lane on the westbound approach. At its unsignalized intersection with 47th Street, 78th Avenue has a shared left-turn/through/right-turn lane on the eastbound approach and a shared left-turn/through lane and a separate right-turn lane on the westbound approach. At its unsignalized intersection with 50th Street, 78th Avenue has a shared left-turn/through/right-turn lane on the eastbound and westbound approaches. Between Rock Island-Milan Parkway and U.S. Route 150, 78th Avenue is under the jurisdiction of the Rock Island County Highway Department, has an Average Annual Daily Traffic (AADT) volume of 4,450 vehicles (Illinois Department of Transportation [IDOT] 2020), and has a posted speed limit that varies between 45 and 55 mph. Rock Island-Milan Parkway is generally a north-south, arterial road that has two lanes in each direction divided by a barrier median. At its signalized intersection with 78th Avenue, Rock Island-Milan Parkway has a separate left-turn lane, two through lanes, and a separate right-turn lane on both approaches. Rock Island-Milan Parkway is under the jurisdiction of the Illinois Department of Transportation (IDOT), has an AADT volume of 18,000 vehicles (IDOT 2020) north of 78th Avenue and 10,600 vehicles (IDOT 2020) south of 78th Avenue, and has a posted speed limit of 55 mph.

U.S Route 150 is generally a north-south, local road that has one lane in each direction. At its unsignalized intersection with 78th Avenue, 47th Street has a shared left-turn/through/right-turn lane that is under stop sign control on both approaches. At its unsignalized intersection with 77th

Avenue, 47th Street has a shared left-turn/through/right-turn lane on the northbound and southbound approaches. North of 78th Avenue, 47th Street serves an industrial park and is under the jurisdiction of the City of Moline. South of 78th Avenue, 47th Street serves a residential area, is under the jurisdiction of the Blackhawk Road District, and has a posted seven-ton weight limit between March 15 and June 15.

77th Avenue is an east-west, local road that extends between 47th Street and 50th Street and is aligned opposite an access drive at its intersection with 47th Street. It has one lane in each direction. 77th Avenue is under the jurisdiction of the City of Moline.

Next, Mr. Werthmann conducted traffic counts at the relevant intersections near the proposed Facility, including counts for the turning movements. Traffic counts were conducted from 6 a.m. to 6 p.m. on September 27, 2022, at the following intersections: 78th Avenue with Rock Island-Milan Parkway; 78th Avenue with US Route 150; 78th Avenue with 47th Street; 78th Avenue with 50th Street; and, 77th Avenue with 47th Street.

The peak hour for morning traffic was 7:15 a.m. to 8:15 a.m. and the evening peak hour was 3:30 p.m. to 4:30 p.m. Those are the two peak hours on the roadway system. They represent the commuter peak periods. As traffic engineers they look at these volumes. If the roadway system can accommodate these volumes, it can accommodate the volumes of traffic any other hour of the day because the volumes are much lower.

Access to the Facility will be provided via two, one-way access drives located on the west side of 47th Street at the north and south ends of the Property. The north access drive will be restricted to inbound access only and the south access drive will be restricted to outbound access only. Wider lanes and larger radii will be provided at the access drives in order to accommodate the turning truck traffic. LRS will also pay for increasing the radius in the northwest corner of the 78th

Avenue, 47th Street intersection. Additionally, LRS will be responsible for its share of road repair and maintenance costs for the approximately 1,600 feet of 47th Street from the north boundary of the site to 78th Avenue

All outbound transfer trailers will travel to a distant landfill using the following route: south on 47th Street to westbound 78th Avenue to northbound Rock Island-Milan Parkway to Airport Road to I-280. No transfer stations leaving the Facility will travel eastbound on 78th Avenue .

Mr. Werthmann projected morning peak hour inbound traffic at 12 vehicles, 5 of which are employee passenger vehicles. Outbound traffic for the same morning peak hour will be 7 vehicles. Inbound traffic during the afternoon peak hour will be 11 vehicles and outbound traffic will be 26 vehicles, 15 of which are employee passenger vehicles. Mr. Werthmann also projected the growth in background traffic through 2028.

The traffic analysis was then performed using the Highway Capacity Software. It showed that the two signalized intersections, and the critical movements at the stop sign controlled intersection currently operate at a good level of service, and are projected to continue to operate at a good level of service (service level B or C). Mr. Werthmann, therefore, concluded that the existing roadway system has sufficient reserve capacity to accommodate the additional traffic to be generated by the Transfer Station. Additionally, Mr. Werthmann performed a gap study at the intersection of 78th Avenue with 47th Street that demonstrates that there are sufficient gaps available in the 78th Avenue traffic stream to accommodate the anticipated traffic turning to and from 47th Street. Other than the radius improvements at the 78th Avenue/47th Street intersection to accommodate the turning truck traffic, no additional roadway improvements or traffic control modifications are required to accommodate the Transfer Station traffic. The roads in the Industrial Park have been designed to accommodate this type of truck traffic.

Based on the foregoing and his extensive experience as a traffic engineer, Mr. Werthmann concluded that the proposed Transfer Station has been designed to minimize the impact on existing traffic flows.

On cross examination by City Staff, Mr. Werthmann agreed that a condition prohibiting transfer trailers from making a left turn from the north leg of 47th Street onto east-bound 78th Avenue is acceptable. He also agreed that LRS would cooperate in seeking striping on the westbound deceleration lane on 78th Avenue as it approaches 47th Street. LRS will also pay for that striping. He also testified that he did not see any traffic issues associated with the citizen drop-off area at the Facility.

Cross examination by Group O focused mainly on the willingness of LRS to contribute its share of road maintenance costs, regardless of who has jurisdiction over the roads and LRS agreed to a special condition that it will do its proportionate share of maintenance and repair which is set forth in the Special Conditions.

Mr. Werthmann confirmed through questioning by Mr. Silverman that at a maximum of 520 tons of waste per day, the maximum number of trucks using the Facility would be about 137 trucks and that the roadway system is designed to handle them. Also, the fact that LRS will be parking trucks on the site actually reduces the amount of traffic on the roadway system, improves capacity and reduces the wear and tear on the roadways. All of the roadways are designed to accommodate the type of truck traffic that is contemplated here.

Other than Mr. Werthmann, no other expert witness provided testimony as to whether the traffic patterns to and from the Facility are so designed as to minimize the impact on existing traffic flow. The conclusions of Mr. Werthmann, with regard to the traffic criterion were unchallenged and un rebutted.

7. Hazardous Waste Emergency Plan

Per the Application and the testimony of Devin Moose, the Facility will not be treating, storing or disposing of Hazardous Waste. This Criterion is therefore not applicable and therefore deemed satisfied. No challenge to this Criterion has been filed.

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.*

This Criterion is contested by Group O by relying solely on the RICWMA Resolution. For the reasons set forth below, I find that Criterion 8 is satisfied.

Phillip Kowalski, who is also a well-respected expert in the analysis of solid waste management plans reviewed the contents of the solid waste management plan adopted by Rock Island County, and with the five-year plan updates subsequently adopted by the County's delegated solid waste planning authority, the Rock Island County Waste Management Agency. In his testimony at the Hearing, Mr. Kowalski rendered an expert opinion that the proposed Facility is consistent with the solid waste management plan adopted by Rock Island County as updated by the RICWMA. Mr. Kowalski's testimony at the Hearing was credible. Other than Mr. Kowalski, no other expert witness provided testimony as to whether the proposed Facility is consistent with the Plan and no one from the RICWMA was called to testify under oath to rebut Mr. Kowalski's opinion.

The Illinois Solid Waste Planning and Recycling Act (415 ILCS 15/1 *et seq.*) requires every county in Illinois to adopt a 20-year plan for managing its waste. Mr. Kowalski testified that in 1989, Rock Island County joined with Henry County and five counties in Iowa (Cedar, Clinton, Jackson, Muscatine, and Scott) to jointly develop the required solid waste management

plan, which was prepared by the Bi-State Metropolitan Planning Commission on behalf of the participating counties.

Rock Island County adopted the Bi-State Regional Comprehensive Solid Waste Management Plan (hereinafter the “Plan”) on February 19, 1991. In 1992, the County and eleven municipalities within the County formed the RICWMA, a municipal joint action agency, through an intergovernmental agreement. Pursuant to authority provided in the Illinois Solid Waste Planning and Recycling Act, the County delegated solid waste planning authority to RICWMA. Subsequently, the RICWMA has prepared five-year updates to the 1991 Plan in 1996, 2001, 2006, 2011, 2017 and 2022. The 1996 Plan Update contemplated the potential siting of a transfer station in the County.

Each of the seven counties that participated in the 1991 Plan have subsequently pursued implementation of their solid waste systems as individual counties or agencies. The 1996 Plan Update and the others that followed contained four recommendations pertaining to solid waste disposal and the siting of pollution control facilities with the 1996 Plan Update containing the most detailed description of the policies underlying the four recommendations. As noted, each of these four basic policy recommendations were reaffirmed in all subsequent 5-year updates: (1) the disposal system remain a “laissez-faire system” with any interested party having the right to apply for siting of a regional pollution control facility (Section 4.3); (2) all applicants for siting approval must “prove the facility is necessary to accommodate the solid waste needs of Rock Island County” (Section 4.5); (3) RICWMA’s role in siting a pollution control facility: RICWMA shall review each siting application for consistency with the plan and offer a “recommendation” to the siting authority concerning consistency with the plan; each applicant shall submit a copy of the siting application to RICWMA at the time of submission to the siting authority and RICMWA “will meet

to consider a recommendation concerning consistency with the plan” no later than 30 days before the siting Hearing; and financial arrangements involving siting applications remain the “purview of the applicant and appropriate siting body” and it is “recommended RICWMA be included as a party in discussions of financial arrangements” (Section 4.6); and (4) there is no prohibition on the receipt of out-of-county or out-of-state waste. Mr. Kowalski concluded that the Moline Transfer Station represents a significant milestone in the continued implementation of the County’s solid waste management plan, and that the Proposed Transfer Station is consistent with the solid waste management plan adopted by Rock Island County, as updated by RICWMA. Group O presented no expert testimony to rebut that opinion.

Mr. Kowalski testified that, consistent with the first recommendation (Section 4.3 of the Plan), LRS, a private company, applied for the siting of the proposed Facility. Mr. Kowalski testified that, consistent with the second recommendation (Section 4.5 of the Plan), the proposed Facility is necessary to accommodate the waste needs of Rock Island County plus portions of four other counties located within a 15-mile radius of the Facility, which encompass the proposed service area. Mr. Kowalski testified that, consistent with the third recommendation (Section 4.6 of the Plan), LRS provided a copy of the siting Application to each RICWMA member and the RICWMA office on the date the siting Application was filed with the City. Mr. Kowalski testified that, consistent with the third recommendation (Section 4.6 of the Plan), the RICWMA met to consider a recommendation concerning consistency with the Plan no later than 30 days before the scheduled siting Hearing. Mr. Kowalski testified that, consistent with the third recommendation (Section 4.6 of the Plan), LRS met with representatives of the City to discuss a host community agreement, which included payment of host fees, and the Chairman of the RICWMA was present at the meeting, and the sharing of host fee revenues between the City and the RICWMA was

discussed during the meeting. Mr. Kowalski testified that, consistent with the fourth recommendation (Section 4.8 of the Plan), the proposed service area for the proposed Facility includes out-of-county and out-of-state waste.

Cross-examination did not really challenge any of Mr. Kowalski's conclusions, but focused instead on the weight, if any, to be given to the RICWMA Recommendation. I set forth earlier in this Report what I think are the deficiencies in the RICWMA Resolution, its process and its recommendation. In my view, the Resolution which contains only broad and inadequate legal conclusions without any supporting factual averment or substantive analysis is unpersuasive and the fact that it is not in evidence and the bases for its conclusions are not explained or supported by any testimony subject to cross-examination, negatively affects the credibility of those conclusions and the Resolution as a whole. I attach little evidentiary value to it. As noted previously, Mr. Kowalski testified that the RICWMA Resolution is inconsistent with the evidence in the siting Application, which supports a need for the Moline Transfer Station. Mr. Kowalski pointed out some clearly erroneous statements at the April 26th RICWMA meeting, and he emphasized that when those recommendations are based on conjecture and misinformation, rather than fact, they should not be given any weight by the siting authority. I agree, and it is well accepted that a local Hearing body is not free to disregard unrebutted expert testimony. *See, Industrial Fuels and Resources v. Illinois Pollution Control Board*, 227 Ill.App.3d 533 (1st Dist. 1992).

In my opinion, Mr. Kowalski's testimony and Aptim's report contained in LRS's Application provided a demonstration of plan consistency by the proposed Facility with the recommendations as initially specified in the 1996 Plan Update and reaffirmed in the subsequent updates, and I agree with the unrebutted expert opinion that the proposed Moline Transfer Station

is consistent with the solid waste management plan adopted by Rock Island County and as updated by the RICWMA.

9. ***Recharge Area***

Per the Application and the testimony of Devin Moose, the Facility is not located in a regulated recharge area. This Criterion is therefore not applicable and therefore deemed satisfied. No challenge to this Criterion has been filed.

10. ***Consideration of Previous Operating Experience***

The Act permits the Corporate Authorities to consider the previous operating experience of an Applicant. Specifically, the Act permits the City to consider the “past record of convictions or admissions of violations of the Applicant...”. Here, the record contains no past convictions of violations by LRS nor admissions of violations by LRS, which favors approval of the Application.

PUBLIC COMMENTS

In addition to the public comment received during the Hearing, the City Clerk received written public comments after the Hearing closed. I found that the public comment was not focused on the statutory criteria in a relevant and “probative” way and, therefore, the comment, neither singly nor collectively, caused any change in how I weighed the evidence received from the Application, the admitted exhibits, and the admitted testimony.

PROPOSED FINDINGS OF FACT

My Proposed Findings of Fact are attached.

Respectfully submitted,



Dennis G. Walsh, Hearing Officer

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PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On March 3, 2023, Lakeshore Recycling Systems, LLC (“Applicant” or “LRS”) applied (the “Application”) to the City of Moline (“City”) for local siting approval of a new municipal waste transfer station consisting of approximately 10 acres located on 47th Street north of the intersection of 78th Avenue and 47th Street within the corporate limits of the City of Moline, Illinois (as legally described in the application and hereafter referred to as the “Property”);
2. The Property upon which the proposed pollution control facility (the “Facility”) is to be located is owned by the Metropolitan Airport Authority of Rock Island County (the “Authority”) but the Applicant controls the Property under a 50 year lease agreement with the Authority and will operate the Facility. The Facility is anticipated to operate during the term of the lease or longer;
3. The Property is located within the corporate limits of the City, is the subject of a Host Community Agreement between the Applicant and the City, and the City has jurisdiction to consider the Application;
4. The Hearing on the Application was opened on June 27, 2023;
5. The Hearing closed on June 28, 2023;
6. In accordance with the Illinois Environmental Act (the “Act”), written comment was then received by the Office of the City Clerk for an additional 30 days after the close of the Hearing (i.e., through 11:59:59 p.m. CDST on July 28, 2023, including any written comment post-marked on or before July 28, 2023);
7. The Applicant served written notice of its intent to file the Application (“Filing Notice”) in person or by certified mail, return receipt requested, on the owners of all property within the subject area not owned by LRS and on the owners of all property within 250 feet in each direction of the lot line of the Property, excluding roads, said owners being such persons or entities which appear from the authentic tax records of Rock Island County. LRS further served the Filing Notice in person or certified mail, return receipt requested, on the members of the General Assembly from the legislative district in which the proposed Facility is to be located. LRS further caused the Filing Notice to be published in a newspaper of general circulation published in Rock Island County;
8. The Applicant provided evidence that the Filing Notice was served and published within the prescribed time period in accordance with the requirements of Section 39.2(b) of the Illinois Environmental Protection Act (“Act”) and Section 15-5102 of the City of Moline General Ordinance No. 3002-2023, enacting a new Article V in Chapter 15 entitled “Pollution Control Facility Siting” (“Ordinance”);
9. The Application contains all the information required by Section 39.2(c) of the Act and Section 15-5105 of the Ordinance applicable to a solid waste transfer station;

10. LRS paid the requisite filing fee to the City, pursuant to Section 15-5104 of the Ordinance, on March 3, 2023;

11. Prior to commencement of the Hearing, the Applicant caused notice of the Hearing on its Application (“Hearing Notice”) to be served by certified mail, return receipt requested, on the members of the General Assembly from the legislative district in which the proposed Facility is to be located, the IEPA, the governing authority of each municipality contiguous to the proposed Facility or contiguous to the City of Moline and the county board of the county where the proposed Facility is to be located. LRS caused the Hearing Notice to be published in a newspaper of general circulation published in Rock Island County on June 9, 2023;

12. LRS provided evidence that the Hearing Notice was served and published within the prescribed time periods in accordance with the requirements of Section 39.2(d) of the Act and Section 15-5107 of the Ordinance;

13. Given the Applicant’s compliance with the pre-filing notice requirements and the compliance with the Hearing Notice requirements of the Act, the City Council has jurisdiction under Section 39.2 of the Act to approve, approve with conditions, or deny the Application;

14. Following notice, the City held Hearings on June 27 and June 28, 2023, pursuant to the Ordinance;

15. The Applicant, the City of Moline staff (“City Staff”) and Group O are parties that appeared at the Hearings;

16. Members of the general public were permitted at the Hearing to make unsworn public comment which, pursuant to the Ordinance, shall not be given the evidentiary weight of sworn testimony subject to cross-examination;

17. No complaints regarding access to and availability of the Application have been received;

18. No objections regarding participation, Hearing procedures or public comment were made by any participant, would be participant or member of the public;

19. The siting proceedings herein, both procedurally and substantively, complied with the requirements of fundamental fairness;

20. There were no amendments to the Application;

21. No prehearing motions were filed by any of the Parties;

22. Based on the record, the Facility is not located within 1,000 feet from the nearest property zoned for primarily residential uses or within 1,000 feet of any dwelling;

23. The Applicant has demonstrated that the proposed Facility meets Criterion 1: “the facility is necessary to accommodate the waste needs of the area it is intended to serve...;

24. The Applicant has demonstrated that the proposed Facility does meet Criterion 2: “the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;” with the imposition of the special conditions proposed by City Staff (and compliance therewith by the Applicant) which are attached hereto as Exhibit A,

25. The Applicant has demonstrated that the proposed Facility meets Criterion 3: “the facility is so 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;

26. The Applicant has demonstrated that the proposed Facility meets Criterion 4; “for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year floodplain or the site is flood-proofed;”

27. The Applicant has demonstrated the proposed Facility does meet 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;” with the imposition of the special conditions proposed by City Staff (and compliance therewith by the Applicant) which are attached hereto as Exhibit A;

28. The Applicant has demonstrated that the proposed Facility meets Criterion 6: “the traffic patterns to or from the Facility are so designed as to minimize the impact on existing traffic flows” with the imposition of the special conditions proposed by City Staff (and compliance therewith by the Applicant) which are attached hereto as Exhibit A;

29. The Applicant has demonstrated that the Facility will not be accepting hazardous waste and, therefore, demonstrated that Criterion 7 is not applicable;

30. The Applicant has demonstrated that the proposed Facility meets Criterion 8: “...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 ...;”

31. The Applicant has demonstrated that the Facility is not located within a regulated recharge area and, therefore, Criterion 9 is not applicable;

32. The Applicant’s operating history demonstrates that the Applicant is qualified to operate the Facility safely and properly and provides no basis to deny the Application;

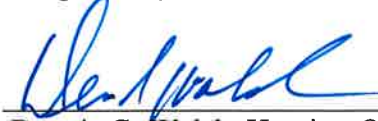
33. The Applicant has agreed to comply and approval is conditioned upon compliance with all terms of the Host Community Agreement between the City of Moline and Lakeshore Recycling Systems, LLC, dated February 13, 2023;

34. With the imposition of and compliance by the Applicant with the special conditions which are attached hereto as Exhibit A, the evidence demonstrates that the Application complies

with each of the nine siting criteria in Sec. 39.2(a) of the Act and, therefore, the City Council should grant siting approval; and

35. The special siting conditions attached hereto as Exhibit A are recommended by the Hearing Officer to be imposed on the Facility as conditions to obtaining siting approval and have been agreed to by the Applicant. The City Council is free to accept or reject these conditions, in whole or in part, or to the extent reasonable, supported by the record and consistent with the Act and the Illinois Pollution Control Board, impose additional conditions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Dennis G. Walsh", is written over a horizontal line.

Dennis G. Walsh, Hearing Officer

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EXHIBIT A

Siting Conditions

1. The final design of the Moline Transfer Station shall be stamped by a licensed professional structural engineer. The final design shall include an analysis of the loading conditions that are unique to an operating transfer station building including, but not limited to: horizontal dynamic loading on the push walls, retaining wall design for the loading bays and high volume and heavy weight truck traffic on the tipping floor.
2. The design of the hydro excavated mixing pits shall include a reinforced concrete floor with a high-density polyethylene geomembrane liner or equivalent material to provide redundant protection to shallow groundwater. The geomembrane liner shall be protected from the underlying stone. A geomembrane puncture analysis shall be performed and the final results shall be implemented in the final design of the hydro excavated mixing pits.
3. No hydro-excavation solidification material shall be stored outdoors.
4. If a fueling station is installed at the Moline Transfer Station, a spill kit containing spill response equipment shall be located at the fueling station.
5. Valves or other equivalent shutoff devices shall be installed on the stormwater discharge/outlet device for the stormwater basin prior to operation of the Moline Transfer Station.
6. On an annual basis, no later than June 1 of each year, the Moline Transfer Station operator shall submit updated contact information for the Transfer Station Manager, Emergency Response Coordinator and Alternate Response Coordinator to the following entities:
 - a. City of Moline, Attn: City Clerk
 - b. Moline Fire/Rescue Department
 - c. Moline Police Department
7. The Moline Transfer Station operator shall invite and host, at least annually, the City of Moline police, fire and other first responders to the transfer station for a safety and education program(s) for responding to fire, spills, and other operational accidents.
8. The following materials, which are considered unauthorized waste shall not be accepted at the Moline Transfer Station:
 - a. Regulated hazardous waste;
 - b. Regulated and manifested special wastes, with the exception of hydro excavation waste, which will only be accepted in the separate hydro excavation waste solidification building;
 - c. Soils;
 - d. Industrial process wastes;

- e. Sludge;
 - f. Used motor oil;
 - g. Pollution control wastes;
 - h. Regulated PCB wastes;
 - i. Potentially infectious medical wastes;
 - j. Liquid wastes (including bulk liquids), with the exception of hydro excavation waste, which will only be accepted in the separate hydro excavation waste solidification building;
 - k. Universal wastes (as defined by 35 IAC 733);
 - l. Regulated asbestos-containing materials;
 - m. Source, special or by-product nuclear materials
 - n. Regulated radioactive or low-level radioactive waste (as defined by the Atomic Energy Act, U.S.C. 201 1, et seq. or the Illinois Low-Level Radioactive Waste Management Act, 420 ILCS 20/3, et seq. or the implementing regulations of either);
 - o. Transuranic wastes;
 - p. Lead-acid (automotive) batteries;
 - q. White goods; and
 - r. Bulk loads of whole tires (incidental tires received shall be segregated and stored for pickup by an off-site recycler).
9. All unauthorized wastes, except for white goods, tires and lead-acid batteries, shall be removed from the transfer station within 24 hours of discovery. White goods, tires and lead-acid batteries shall be segregated and stored in containers dedicated to these materials within the transfer station building, and shall be removed from the transfer station when the containers reach capacity.
10. Within 60 days of submitting its IEPA operating permit application, the Moline Transfer Station operator shall establish a dedicated webpage for the facility. The webpage shall include the facility telephone number, contact email address, hours of operation and types of material accepted.
11. The Moline Transfer Station operator shall diligently patrol and remove litter during the operating day from 47th Street and corresponding right of-way, and along 78th Avenue from Rock Island-Milan Parkway and corresponding right-of-way, and extending to a point 1,500 feet east of 47th Street. In addition, the Moline Transfer Station operator shall patrol the facility periodically throughout the operating day to collect any litter and prevent it from escaping the site.
12. All loaded transfer trailers shall be fully tarped inside the transfer station building prior to exit using a Gorilla mesh side roll transfer trailer kit or equivalent, and using current (i.e., at the time of implementation) best management practices (BMPs). After the transfer trailer has been tarped and has exited the building, the tarp may be secured outside, as needed to prevent interference with loading of subsequent vehicles.

13. The tipping floor of the transfer station building shall be cleared of waste and mechanically swept at the end of each operating day.
14. The overhead doors along the western and eastern sides of the transfer station building (excluding the maintenance building) shall be kept closed, except for emergencies and to allow vehicles to enter and exit the building. The doors shall be equipped with sensors such that they will open and close automatically as collection and transfer vehicles enter and exit the building.
15. All mud and dust tracked onto the site shall be removed with a street sweeper on a daily basis, including all public roads and rights-of-way within a quarter of a mile of the facility.
16. The Moline Transfer Station shall be designed and operated with the design and operational odor control procedures as described in Section 2.4 of the Siting Application, or equivalent, and using current (i.e., at the time of implementation) best management practices (BMPs).
17. Outbound waste/recyclables shall be transported from the transfer station to a final disposal facility utilizing the following route: south on 47th Street to westbound 78th Avenue to northbound Rock Island-Milan Parkway to Airport Road. Transfer trailers leaving the facility shall be prohibited from traveling eastbound on 78th Avenue from the north leg of 47th Street. In the event of an emergency or temporary condition that requires use of an alternate entrance by transfer trailers, the Moline Transfer Station operator shall notify the City within 48 hours of said event, which notice shall include an explanation of the reason the alternate transfer trailer route is needed.
18. Signage shall be installed near the entrance to the transfer station directing citizens to the citizen convenience drop-off area and to then exit the site. Personal vehicles and small trucks or trailers delivering materials to the citizen convenience drop-off area shall be restricted from traveling or maneuvering west of the transfer station building. The citizen's convenience drop-off area shall be continuously monitored via security cameras with live feed. Internal vehicular traffic movements shall be subject to approval by the City during the final site plan review.
19. The Moline Transfer Station operator shall be responsible for its proportional share of road repair and maintenance costs for the approximately 1600 feet of 47th Street from the north boundary of the transfer station property to 78th Avenue. Proportional share shall be based upon usage of the same area of roadway by other tenants of the Quad-City Industrial Airpark.
20. Within 60 days of submitting its IEPA operating permit application, the Moline Transfer Station operator shall contact and request the Rock Island County Highway Department stripe the westbound right-turn deceleration lane on 78th Avenue at 47th Street and shall fund any such striping.

21. The Moline Transfer Station operator shall demonstrate to the City that the proposed development meets the City of Moline Stormwater Ordinance (Ordinance) and shall seek authorization from the City under the Ordinance by no later than submittal of a building permit application.
22. The Moline Transfer Station operator shall implement the Bird Control Plan contained in Appendix K of the Siting Application.
23. The Moline Transfer Station's design and operations shall meet the Federal Aviation Administration's ("FAA") definition of a fully enclosed transfer station per FAA Advisory Circular ("AC") 15/5200-33C and shall otherwise be operated in accordance all applicable FAA ACs.
24. The Moline Transfer Station shall be constructed and operated in substantial conformance with the plans and operating procedures contained in the Siting Application, and using current (i.e., at the time of implementation) best management practices (BMPs).

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