

**KENDALL COUNTY
NEW POLLUTION CONTROL FACILITY
SITING INFORMATION SHEET**

This information sheet was created to inform you of the procedure for the public hearing that will be conducted by Kendall County. This does not attempt to advise you of your rights to seek or obtain review of the County's siting decision and you should consult an attorney to advise you concerning those rights.

HOW DO I RECEIVE NOTICE OF THE PUBLIC HEARING LOCATION AND TIMES?

The Kendall County Siting Ordinance requires the County Clerk to publish two legal notices and, potentially, one display ad notice, in a newspaper of general circulation published in the County. The **first** notice must be published no later than sixty days after the Siting Application is filed. The **second** notice must be published no later than seventy-five days after the Application is filed. The **third** notice, the display ad, may be published during the week preceding the public hearing.

HOW DO I COMMENT ON THE SITING APPLICATION?

There are three ways in which you may comment on the Application for Siting Approval in Kendall County, Illinois.

First, you may become a **Public Participant** and present testimony, witnesses, and evidence at the public hearing.

Second, you may become a **Public Participant** and orally comment on the Application, but not otherwise present testimony or witnesses.

Third, you may comment on the Application in writing, submitting it to the County Clerk, at any time from the date the Application is filed, to thirty days after the last day of the public hearing. You do not need to be a Public Participant to submit written comment.

❖ **How Do I Become A Hearing Public Participant?**

All persons intending to participate in the public hearing must submit written notification of their intent to the County Clerk before the first day of the public hearing or register in person with the Hearing Officer prior to the end of the first day of hearing. The County Participant Notice Form will be available at the County Clerk's office and on the County's web site.

Please Note: The only way you may present oral testimony or witnesses or other evidence during the public hearings is by becoming a Public Participant. If all you want to do is provide written comments to the County Board, and if it makes no difference to you whether the comments

are formally presented during the hearings themselves, then you do not need to become a Public Participant.

➤ **After I submit timely notification of my intent to participate, what are my rights?**

- You have the right to testify at the public hearing under oath.
- You have the right to present witnesses at the public hearing.
- You have the right to orally comment at the public hearing. Oral comments will not be made under oath.
- You have the right to be represented by an attorney at the public hearing.
- If represented by an attorney, your attorney has the right of reasonable cross examination, subject to the Hearing Officer's judgment and consistent with fundamental fairness. Multiple Public Participants may be represented by common counsel.
- If *not* represented by an attorney, you have the right to submit questions to the Hearing Officer, who will exercise discretion in whether and how such questions are to be posed to witnesses.
- If *not* represented by an attorney, you do *not* have the right to orally cross-examine a witness.

➤ **I have submitted timely notification of intent to participate and I would like to testify, present witnesses and/or evidence at the public hearing. What do I need to know?**

- Each Public Participant must file fifteen (15) paper copies, and one electronic copy in PDF format, of all reports, studies, exhibits or other evidence, other than testimony and oral comment, that the Public Participant desires to submit for the public record at least seven calendar days before the first day of the public hearing. Filings must be with the County Clerk.
- The Applicant will present testimony, evidence and/or witnesses the first day of hearing, and every day thereafter until it concludes its case.
- Each Public Participant must be prepared to present testimony, evidence and/or witnesses the day the Applicant concludes its case, and every day thereafter until the Public Participant concludes his/her case. The Hearing Officer will decide the order in which Public Participants are to proceed if there is more than one. Although each Public Participant must be prepared on the day the Applicant concludes its case, that does not necessarily mean that he/she will present his/her case on that day, and the Hearing Officer will determine whether he/she presents his/her case on that day or on a separate day of hearing.

- The County must be prepared to present testimony, evidence and/or witnesses the day the last Public Participant concludes his/her case, and every day thereafter until it concludes its case.
- All witnesses *shall* testify under oath.
- If you testify *you are subject to* reasonable questioning by the attorneys for the Applicant, other Public Participants and the Hearing Officer.
- If you have witnesses testify *they are subject to* reasonable questioning by the attorneys for the Applicant, other Public Participants and the Hearing Officer.
- After all the Public Participants have presented testimony, reasonable rebuttal may be allowed at the discretion of the Hearing Officer.
- The Hearing Officer may assist you with proper identification and authentication of exhibits, to ensure a clear record.

➤ **I have submitted timely notification of intent to participate and I would like to present oral comments at the hearing. What do I need to know?**

- You must be prepared to present oral comments on a day or days established by the Hearing Officer.
- Oral comments *shall not* be made under oath.
- Oral comments are subject to limitations as imposed by the Hearing Officer.
- You are not subject to cross examination by the attorneys for the Applicant and other Public Participants if you choose to present oral comments. However, the Hearing Officer may ask you questions.

➤ **How Do I Qualify to Submit Written Comments?**

- You are *not* required to be a Public Participant in order to offer written comment. *Any person* may offer written comment concerning the appropriateness of the proposed site for the purpose identified by the Applicant.
- Written comment *shall* be filed with the County Clerk or postmarked by the 30th day after the date of the last public hearing.
- Timely filed written comments *will* be made part of the public record and will be considered by the County Board in making its decision.
- If the 30th day after the last day of public hearing is a Saturday, Sunday or a Federal, State or County holiday, then the deadline extends to the end of the next day on which mail is received by the County Clerk.

WHAT IS THE PUBLIC RECORD?

The public record consists of the following:

- The application for siting approval and any amendments filed with the County Clerk.
- Proof of the required public notices.
- Written comments filed by the public and received by the County Clerk or postmarked within 30 days of the last public hearing.
- All evidence, reports, studies, exhibits or documents admitted into evidence at the public hearing.
- All motions filed during the course of the public hearing.
- All notices of participation filed with the County Clerk within the time frame specified.
- A complete transcript of the public hearing(s), in both written and electronic/digital form.
- All post-hearing memoranda submitted by the applicant and any participant, received by the County Clerk or postmarked within 45 days of the last public hearing.
- Written findings provided by outside counsel for the Hearing Committee.
- The Hearing Officer's written findings.
- The Hearing Committee's written findings and recommendation.
- A copy of the Resolution containing the final decision of the County Board.
- A log which the County Clerk shall require each person seeking to view, copy or file documents with or in the public record, to sign, stating the date the request to view, copy, file or other was made, the nature of the request (i.e., view, copy, file or other, and identifying the "other"), and the requesting person's name and address.

The public record *shall* be made available for public inspection in the office of the County Clerk, and members of the public shall be allowed to obtain a copy of all or any portion of the record upon payment of actual cost of reproduction.

In making their decision on the Application, the County Board may consider only the information in the Public Record.

HOW IS THE PUBLIC HEARING TO BE CONDUCTED?

The Hearing Officer shall conduct a fair hearing and take necessary action to avoid delay and maintain order. The Hearing Officer has a duty to ensure the development of a clear, complete and concise record. The Hearing Officer may rule on all objections and evidentiary questions throughout the course of the hearing. The Hearing Officer may establish reasonable limits on the duration of the testimony and questioning of any witness and limit repetitive or cumulative testimony and questioning. The Hearing Officer may limit the summary statements, oral comments, or oral statements.

COMMUNICATION TO THE KENDALL COUNTY BOARD

The County Board members are the “judge” and “jury” in this matter and, as such, you cannot talk to them about your or another person’s case, unless it is through the proper hearing procedural channels. In this case, that means communication of facts or opinions concerning the appropriateness of the location of the proposed pollution control facility must be presented during the public hearing or in written comments filed with the County Clerk and made available to the public.

