

BEFORE THE VILLAGE BOARD OF THE VILLAGE OF ROUND LAKE PARK
SITTING AS A POLLUTION CONTROL FACILITY SITING AUTHORITY

IN RE: APPLICATION FOR LOCAL SITING
APPROVAL FOR GROOT INDUSTRIES
LAKE TRANSFER STATION,

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03-01

NOTICE OF FILING

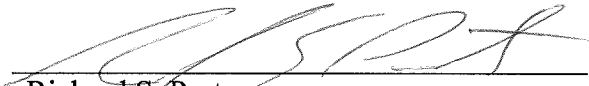
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PLEASE TAKE NOTICE that on October 31, 2013, there was filed electronically
APPLICANT'S RESPONSE TO SPECIAL CONDITIONS PROPOSED BY
PARTICIPANTS, a copy of which is hereby attached and served upon you.

Dated: 10/31/13 Groot Industries, Applicant

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By:


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BEFORE THE VILLAGE BOARD OF THE VILLAGE OF ROUND LAKE PARK SITTING
AS POLLUTION CONTROL FACILITY SITING AUTHORITY

IN RE: APPLICATION FOR LOCAL SITING)
APPROVAL FOR THE GROOT)
INDUSTRIES LAKE TRANSFER)
STATION)

**APPLICANT'S RESPONSE TO SPECIAL CONDITIONS PROPOSED BY
PARTICIPANTS**

NOW COMES, Applicant, Groot Industries, Inc., by and through its attorneys,
HINSHAW & CULBERTSON LLP, and for Applicant's Response to Special Conditions
Proposed by Participants, states as follows:

I. INTRODUCTION

It is well established that a siting authority is not free to disregard the unrebutted testimony on the substantive siting criteria. *Industrial Fuels, supra*. Accordingly, based on the absence of competent rebuttal testimony from any objector, the Village Board must approve the application. The Act, however, allows "[i]n granting approval for a site, the County Board or governing body of the municipality may impose such conditions as may be reasonable and necessary to accomplish the purposes of this section and as are not inconsistent with the regulations promulgated by the Board." 415 ILCS 5/39.2(e) (2006) (emphasis added).

The finding of whether a Special Condition is both reasonable *and* necessary must, like the approval, be based on the evidence. *Peoria Disposal Company v. Peoria County Board*, PCB, 06-184, slip opinion at 6 (December 7, 2006). There is no evidence in this record to support any Special Condition being proposed.

Special conditions not supported by the evidence will not be upheld on appeal. The Pollution Control Board has the authority to modify the conditions imposed by a local siting authority to the extent they are not supported by the record or are inconsistent with the purposes of the Act. See *Browning Ferris Industries of Illinois v. Lake County Board Supervisors and IEPA*, PCB 82-101, slip opinion at 14-15 (December 2, 1982). In addition, the Village Board is limited to imposing conditions only which are *necessary* to accomplish the purposes of Section 39.2 of the Act. There must be affirmative evidence in support of a particular condition, and one cannot simply arbitrarily impose conditions. See *City of Rochelle v. PCB*, 07-113, Order (November 19, 2009).

The Applicant here has proposed a facility which is designed, located and proposed to be operated such that the public health, safety and welfare will be protected and the impact on surrounding properties will be minimized. There is no basis, nor reason, to impose any conditions, and at the hearing no specific conditions were ever actually proposed by any of the participants.

However, Groot Industries, Inc. (Groot) has reviewed Special Conditions that have been proposed by the Village of Round Lake Park staff, the Solid Waste Agency of Lake County, and the Village of Round Lake to be adopted by the Village of Round Lake Park in the event that they approve local siting approval for the Groot Industries, Inc. Lake Transfer Station. As a gesture of good-faith, Groot is amenable to the imposition of certain of these conditions and would agree to certain other conditions if acceptably modified. However, Groot is unwilling to accept some of the proposed conditions as there is no basis, nor reason, that they be imposed.

The following sections provide the Special Conditions proposed by the Village of Round Lake Park staff, the Solid Waste Agency of Lake County, and the Village of Round Lake, respectively, each followed by the Applicant's response.

II. CONDITIONS PROPOSED BY THE VILLAGE OF ROUND LAKE PARK STAFF

The Village of Round Lake Park Staff has proposed that the Village Board adopt the following Special Conditions:

1. The operating hours shall be initially limited to 4 a.m. to 9 p.m. Monday through Friday and 4 a.m. to noon on Saturday. The Village shall designate a contact person who can authorize temporary operation outside those hours as circumstances dictate. The Village may, by resolution, extend the operating hours as circumstances, including but not limited to the operating record, traffic and roadway conditions warrant.

Applicant Response: Groot has proposed operating hours to extend overnight in order to accommodate the long term needs of their customers (e.g. commercial routes), and/or to accommodate schedule impacts due to holidays or emergency situations.

There is no evidence or credible testimony offered by any witness to support a finding that limiting the hours of operation are in any way necessary or that the proposed hours of operation would cause any unreasonable noise or other adverse condition to any neighboring property.

2. The Applicant shall not exceed a maximum daily tonnage of 500 tons for the first two years of operation. The Village shall designate a contact person who can authorize temporary operation in excess of the daily maximum tonnage as circumstances dictate. Village

may, by resolution, increase the maximum daily tonnage as circumstances, including but not limited to the operating record, traffic and roadway conditions warrant.

Applicant Response: There is no evidence or credible testimony offered by any witness to support an arbitrary maximum daily throughput of 500 tons for the first two years of operation.

However, Groot will agree to a condition limiting the annual transfer station throughput on average to 750 tons per day (assuming 280 working days per year = 5.5 days per week x 52 weeks - 6 holidays) with the peak daily amount not to exceed 900 tons per day, provided that Groot can request authorization from the Village of Round Lake Park to increase these limits.

3. The Applicant must keep the doors to the facility closed between the hours of 4:00 a.m. and 8:00 a.m. In addition the Applicant must keep the doors to the facility closed from 6:00 p.m. to 4:00 a.m. on weekdays and from 11:00 a.m. on Saturdays until 4:00 a.m. on Mondays. The Village may, by resolution, modify the requirement to keep the doors to the facility closed from 6:00 p.m. to 4:00 a.m. on weekdays and from 11:00 a.m. on Saturdays until 4:00 a.m. on Mondays as circumstances, including but not limited to, the operating record, noise emissions, odor emissions, traffic and roadway conditions warrant.

Applicant Response: As written, this proposed Special Condition is confusing. However, Groot is agreeable to extending the hours that facility doors would remain closed except to allow truck to enter and exit to include the overnight hours as this appears to be the intent of this condition. As such, Groot agrees with the imposition of a Special Condition that would require the doors of the facility to be closed between the following hours:

Sunday 12:00AM – 11:59PM

Monday 12:00AM – 8:00AM and 6:00PM – 11:59PM

Tuesday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Wednesday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Thursday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Friday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Saturday	12:00AM – 8:00AM and 12:00PM – 11:59PM

Groot also agrees that the Village may, by resolution, modify the requirement to keep the doors to the facility closed as circumstances warrant.

4. Should a Special Condition hereof be violated, should noise emissions be noticeable over ambient or odor emissions be noticeable at or beyond the facility boundary, the Village may, in its discretion and at the expense of the Applicant, retain experts, retain counsel, investigate the violation and/or emissions and further in the sole discretion of the Village take legal action or such other action against the Applicant as it deems appropriate at the Applicant's sole expense.

Applicant Response: Groot objects to the imposition of this condition as it is redundant and unnecessary as Sections 13 and 16 of the Host Agreement already address these issues. Furthermore, there was no evidence or testimony at the 415 ILCS 5/39.2 public hearing that the language contained in the aforementioned sections of the Host Agreement is in any way inadequate or insufficient and thus the imposition of this condition is not supported by the record.

5. Any action permitted herein that may be taken in whole or in part at the expense of the Applicant shall be funded by the Applicant in accordance with the then existing applicable provisions of Chapter 158 of the Village Code entitled "ESCROW OF FUNDS" governing the

provision of security of payment of professional fees and other costs incurred by the Village for Private Developers.

Applicant Response: Groot objects to the imposition of this condition as it is redundant and unnecessary as Section 25 of the Host Agreement already addresses this issue. Furthermore there was no evidence or testimony at the 415 ILCS 5/39.2 public hearing that the language contained in the aforementioned section of the Host Agreement is in any way inadequate or insufficient and thus the imposition of this condition is not support by the record.

6. The applicant shall serve the proposed facility by utilizing the public sewer system unless same becomes unavailable. If unavailable, the Applicant shall utilize the public sewer system when it becomes available.

Applicant Response: Groot is agreeable to this condition.

7. The Applicant shall place additional landscaping and utilize a solid fence at or near the North side property line and at the Northwest corner of the facility. A plan to do so shall be submitted to the Village and be approved or rejected in the building permit process.

Applicant Response: There is no evidence or credible testimony offered by any witness to support the placement of additional landscaping or to use a solid fence at or near the North side property line and at the Northwest corner of the facility. In addition, the installation of additional landscaping at or near the North side property line and at the Northwest corner of the facility would obstruct views of vehicular traffic in this area. This is the very reason that no landscaping or screening was proposed for this area.

In fact, the existence of the proposed stormwater bioswale along the northern site boundary and the necessity to maintain access to all proposed paved areas to allow vehicle maneuvering makes the placement of additional vegetation in this area of the site impossible.

Nevertheless, Groot is agreeable to the placement of a solid fence along the northern boundary the site. This fence can be placed from the northeast property corner to the eastern edge of the stilling basin located in the northwest corner of the site and should not extend all of the way to the western site boundary. Although vegetation is already proposed in the northwest corner of the site, it is important to maintain sight lines looking north along Porter Drive from the facility access drive for safety of the facility drivers as they exit the facility.

8. The Applicant agrees to use its best efforts to minimize incoming and outgoing traffic during the hours referenced below. The Village shall maintain control of turns at the intersection of Porter Drive and Route 120. The Village agrees to initially prohibit left turns from Porter Drive to Route 120 from 7:00a.m. to 9:00a.m. and 3:00 p.m. to 5 p.m. at a minimum at all times the transfer facility is operating. The Village may, by resolution, modify or eliminate any restrictions at the aforesaid intersection as circumstances, traffic or roadway conditions warrant. The Applicant shall cooperate with the Village to keep traffic impacts minimized.

Applicant Response: Groot is agreeable to this condition.

9. Storage. The tipping floor shall be cleaned and free of waste at least once each day the facility operates. No waste or other material shall be left on the floor inside the transfer building or outside the transfer building overnight or when the facility is not operating. Waste may be kept temporarily in transfer trailers for no more than 24 hours (except on weekends and holidays), provided that such trailers are stored indoors and suitably covered. Empty transfer trailers may be stored outdoors for no more than 24 hours (except on weekends and holidays).

Applicant Response: Groot is agreeable to this condition.

10. Noise Control. All equipment utilized for operations shall be equipped with mufflers or other sound suppressing devices required for compliance with applicable State statutes and regulations. The Village may require the use of available alternatives to backup beepers.

Applicant Response: Groot is agreeable to complying with applicable State statutes and regulations. Additionally, Groot is agreeable to considering the use of available alternatives to backup beepers as it relates to dedicated on-site equipment or for vehicles accessing the site that are owned by Groot.

11. Litter Control. The Applicant shall control litter by discharging and loading all waste within the enclosed portion of the Transfer Facility. The Applicant shall use its best efforts to assure that vehicles hauling waste to, or removing waste from the Transfer Facility shall be suitably *covered* so as to prevent waste from leaving the vehicles. A fence to aid in the interception of any blowing litter shall surround the Transfer Facility. The Applicant shall diligently patrol the Subject Property during hours of operation to collect any litter. In addition, the Applicant shall abide by the litter control plan approved by the Village as a result of the siting process. At a minimum the Applicant will diligently patrol and remove litter from the Subject Property, all property owned or controlled by the Applicant, and public street and corresponding right-of-way within 1500 feet of the Subject Property. In addition, the Applicant shall, at a minimum, patrol and remove litter from property within five hundred (500) feet of the aforesaid public streets and corresponding rights-of-way with the permission of the owner of said property, which permission the Applicant will diligently attempt to obtain.

Applicant Response: Groot is agreeable to this condition.

12. The Applicant shall provide a street sweeper to remove mud and dust tracked onto hard surfaces inside and outside the Transfer Facility, on property owned or controlled by the Applicant as well as public roads and right-of-ways included within the roadway boundaries within, at a minimum, one thousand (1,000) feet of the Subject Property on an as needed basis, but not less frequently than daily.

Applicant Response: Groot is agreeable to this condition.

13. The Applicant shall retain a pest control service on an on-going basis to address the potential for infestation by rodents and other vectors, whereby such service shall inspect the Transfer Facility on an as needed, but no less than monthly, basis.

Applicant Response: Groot is agreeable to this condition.

III. CONDITIONS PROPOSED BY SWALCO

SWALCO has suggested that the Round Lake Park Village Board consider fifteen proposed Special Conditions, should they so determine to grant the request for Local Siting. These proposed conditions are listed as follows, each followed by the applicant's response:

1. The facility operating hours shall be from 4 am to 8 pm, Monday through Friday, and 4 am to 12 pm on Saturdays. It shall be closed on Sundays. The Village of Round Lake Park may extend the operating hours on a temporary basis in cases where Groot is able to justify the need to have extended hours due to storms, strikes or other onetime events. Once the need for extended hours has been exhausted the facility shall go back to its standard operating hours.

Applicant Response: Refer to the Applicants response to Round Lake Park recommended Special Condition 1. Groot has proposed operating hours to extend overnight in order to accommodate the general needs of their customers (e.g. commercial routes), and/or to accommodate schedule impacts due to holidays or emergency situations.

There is no evidence or credible testimony offered by any witness to support a finding that limiting the hours of operation are in any way necessary or that the proposed hours of operation would cause any unreasonable noise or nuisance to any neighboring property.

2. Groot Industries shall not be allowed to accept in or ship out municipal waste, recyclables or landscape waste/food scraps via rail.

Applicant Response: Groot is agreeable to this condition.

3. The transfer station shall be limited to an average annual intake of 750 tons per day assuming 280 working days per year (5.5 days per week x 52 weeks - 6 holidays). The peak daily amount allowed shall be 900 tons per day. If the transfer station has a need to increase these limits it must first obtain approval from the Round Lake Park Village Board.

Applicant Response: Groot is agreeable to this condition.

4. Transfer trailers full of municipal waste, recyclables or landscape waste/food scrap shall not be stored outside during operating hours for longer than 2 hours. If they are to be stored overnight the trailers must be parked inside the transfer station. Empty transfer trailers may be stored outside for no more than 24 hours.

Applicant Response: Refer to the Applicants response to Round Lake Park recommended Special Condition 9. The tipping floor shall be cleaned and free of waste at least once each day the facility operates. No waste or other material shall be left on the floor inside the transfer building or outside the transfer building overnight or when the facility is not operating. Waste may be kept temporarily in transfer trailers for no more than 24 hours (except on weekends and holidays), provided that such trailers are stored indoors and suitably covered. Empty transfer trailers may be stored outdoors for no more than 24 hours (except on weekends and holidays).

5. The service area of the transfer station shall be Lake County generated municipal waste, recyclables and landscape waste/food scraps only. No out of county waste shall be accepted at the transfer station.

Applicant Response: There is no evidence or credible testimony offered by any witness to support a condition limiting the waste to be accepted at the transfer station to that generated in Lake County. Furthermore, such a condition is not reasonable or necessary to accomplish the purposes of Section 39.2 of the Act. Moreover, any such proposed restriction is most likely unconstitutional *C&A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383 (1994).

6. The push walls in the transfer station where municipal waste, recyclables and landscape waste/food scraps are stored on the tipping floor shall be pressure washed at least once every two weeks.

Applicant Response: There is no evidence or credible testimony offered by any witness to support a finding that the pushwalls need to be pressure washed at least once every two weeks.

7. All plants and trees installed per the landscaping plan shall be replaced in a reasonable amount of time if they die, and shall be of the same approximate size of the deceased plant or tree.

Applicant Response: Groot is agreeable to this condition.

8. If Groot obtains control of ownership of the parcel to the east of the subject site, and if it decides to remove the deciduous trees on that parcel such that the natural barrier provided by the trees is no longer sufficient, then Groot must install appropriate landscaping along the eastern border of the property that is consistent with the other existing landscaping and screening on the subject property.

Applicant Response: Groot is agreeable to this condition.

9. The transfer station building must maintain a negative air pressure inside of the facility at all times during the operating hours.

Applicant Response: Groot is agreeable to this condition.

10. The transfer station building must filter all exhaust air from the building in order to effectively treat the exhaust air for potential odors and dust. The filter must be pre-approved by the Village of Round Lake Park.

Applicant Response: There is no evidence, expert analysis, or studies that were offered by any witness to support a finding that scrubbers or other such material would result in any improvement of odor control or which would in any way support such a condition.

The facility design includes numerous features to control odors and dust. These include:

- All waste tipping operations will be conducted within the transfer station building;
- The tipping floor will be cleared of waste on a daily basis;
- Waste materials will be continually transferred throughout the operating day on a first-in, first-out basis. As such, waste materials received at the proposed transfer station will typically be removed within hours of receipt;
- Incoming waste which exhibits an unusually strong odor will not be temporarily stockpiled on the tipping floor, but will be immediately loaded into a transfer trailer for immediate removal from the proposed transfer station; and
- Customers which are found to habitually deliver wastes which exhibit unusually strong odors will be denied access to the proposed transfer station.

- In the event that incoming waste is particularly odorous, an odor neutralizer will be dispersed through the facility misting system. As the mist contacts the waste, the neutralizer will counteract the odor emanating from the waste. Any odor neutralizer will be non-toxic to protect the safety of employees and visitors.
- In order to further improve indoor air quality, drivers of transfer vehicles located within the loading bay will be required to shut off their engines while being loaded to reduce vehicle exhaust levels within the transfer station building.
- All access drives, parking areas, storage areas and vehicle-maneuvering areas within the facility will be paved. Mud and dust tracked onto the property will be removed with a street sweeper on a routine basis. Additionally, all public roads and right-of-ways within, at a minimum, one thousand feet of the Lake Transfer station will be swept at least once daily. In addition, a misting system shall be provided to help mitigate dust inside the transfer building.

11. The doors at the transfer station where the packer trucks enter and exit and where the transfer trailers enter and exit must remain closed during the operating hours, except to allow the packer trucks and transfer trucks to enter and exit the building. The only exception to this requirement is when the outside temperature is 80 degrees or greater.

Applicant Response: Refer to the Applicants response to Round Lake Park recommended Special Condition 3. There is no evidence or credible testimony offered by any witness to support a finding that keeping the doors open during operation would cause any unreasonable noise or nuisance to any neighboring property at any hour of the day.

As proposed by the Village of Round Lake Park staff, Groot is agreeable to extending the hours where the automatic doors would definitely be used to include the overnight hours as this was the original intent. Groot agrees with the imposition of a Special Condition that would require the doors of the facility to be closed between the following hours:

Sunday	12:00AM – 11:59PM
Monday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Tuesday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Wednesday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Thursday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Friday	12:00AM – 8:00AM and 6:00PM – 11:59PM
Saturday	12:00AM – 8:00AM and 12:00PM – 11:59PM

Groot also agrees that the Village may, by resolution, modify the requirement to keep the doors to the facility closed as circumstances warrant.

12. No left turns shall be permitted from Porter Road onto Route 120 during the hours of 7 am to 10 am and 3 pm to 6 pm. After the one year anniversary of the transfer station being operational the Village of Round Lake Park shall evaluate the effectiveness of this Special Condition and its enforcement, and shall have the authority to extend the hours and/or implement physical barriers eliminating left turns at the intersection.

Applicant Response: Refer to the Applicants response to Round Lake Park recommended Special Condition 8. As proposed by the Village of Round Lake Park staff, Groot is agreeable to using its best efforts to minimize incoming and outgoing traffic by prohibiting left turns from Porter Drive to Route 120 during the hours between 7:00AM. and 9:00AM and between the hours of 3:00PM and 5:00PM by trucks travelling from the transfer facility at all

times that the transfer facility is operating. Groot has also agreed that the Village may, by resolution, modify or eliminate any restrictions at the aforesaid intersection as circumstances, traffic or roadway conditions warrant. There is no evidence or credible testimony offered by any witness to support increasing the duration of these left-turn-restriction periods.

13. All transfer trailers must enter the facility eastbound from Route 120 and must exit the facility westbound on Route 120.

Applicant Response: Groot is agreeable to this condition.

14. Groot Industries shall be required to contact Lake County Department of Transportation within three months of local siting approval being granted and coordinate with and keep informed Lake County DOT regarding its roadway improvements.

Applicant Response: Groot is agreeable to this condition.

15. Groot Industries shall be required to request that all the above Special Conditions be included as part of the operating permit from IEPA.

Applicant Response: Groot is agreeable to this condition.

IV. CONDITIONS PROPOSED BY THE VILLAGE OF ROUND LAKE

The Village of Round Lake has requested that if the siting application is approved, the following conditions should be included in any such authorization.

1. The Transfer Station can accept at most 750 tons of waste each day.

Applicant Response: There is no evidence or credible testimony offered by any witness to support a maximum throughput of 750 tons of waste each day. In fact, the application clearly demonstrated that the facility would be able to handle well in excess of 900 tons per day.

Nevertheless, Groot will agree to a condition limiting the annual transfer station throughput on average to 750 tons per day (assuming 280 working days per year = 5.5 days per

week x 52 weeks - 6 holidays) with the peak daily amount not to exceed 900 tons per day, provided that Groot can request authorization from the Village of Round Lake Park to increase these limits.

2. The Transfer Station can operate only from 6 a.m. to 6 p.m. Monday through Friday and from 6 a.m. to noon on Saturday and shall not operate on Christmas Day and New Years Day; Groot may petition the Board to authorize temporary operations at other and additional times in case of severe weather, a special event and similar situations and the Board will not unreasonably withhold approval but can impose reasonable conditions on the other or additional times of operation.

Applicant Response: Groot has proposed operating hours to extend overnight in order to accommodate the general needs of their customers (e.g. commercial routes), and/or to accommodate schedule impacts due to holidays or emergency situations.

There is no evidence or credible testimony offered by any witness to support a finding that limiting the hours of operation are in any way necessary or that the proposed hours of operation would cause any unreasonable noise or nuisance to any neighboring property.

3. Two loads of waste will be randomly checked each day from Monday to Friday and one load will be randomly checked on Saturday.

Applicant Response: In its Application, Groot has proposed that a random load checking program will be implemented. A designated inspector trained to identify unauthorized materials (typically the loader operator) will inspect at least three random loads of solid waste delivered to the facility on a random day each week. These loads will be directed to an isolated area of the tipping floor, where they will be inspected. The driver will remain present during the inspection. The inspector will record the transporter's name, driver's name, license plate number, truck unit

number, date and time. The load inspector will visually scan the load as it discharges from the truck and as it is spread on the tipping floor. Once all the waste has been deposited and spread out, the inspector will document whether unacceptable waste was encountered. All inspection forms will be maintained in the scale house.

This type of random inspection is generally implemented at final disposal facilities such as landfills. However, this additional load checking feature has been incorporated into the operating plan for the proposed transfer station as an additional protective measure and deterrent to the delivery of unacceptable materials, as well as to monitor the effectiveness of the waste screening procedures.

The finding of whether a Special Condition is both reasonable and necessary must be based on the evidence. There is no evidence or credible testimony offered by any witness to support a finding that a higher frequency of random load inspections is necessary.

4. The push walls will be power washed one time each week including by using detergent and disinfectant on alternating weeks; the tipping floor will be power washed one time each month with detergent and disinfectant; this power washing will be performed more frequently if necessary in order to address odors.

Applicant Response: There is no evidence or credible testimony offered by any witness to support a finding that power washing the push walls and tipping floor with detergent and disinfectant at the specified intervals is necessary to address odors. There is no evidence or credible testimony offered by any witness to support a finding that the pushwalls need to be pressure washed one time each week or that the tipping floor needs to be pressure washed one time each month.

5. Transfer trailers and collection trucks owned or operated by Groot will be cleaned one time each month including by using a detergent and disinfectant on alternating months; Groot will for transfer trailers and collection it does not own or operate have followed the same cleaning procedures by requiring this in contracts with the owners or operators of these vehicles.

Applicant Response: There is no evidence or credible testimony offered by any witness to support a finding that monthly cleaning of the transfer trailers and collection trucks owned or operated by Groot is warranted.

16. Groot will install at air exhaust vents and use filters that remove odor from exhaust air before the air is exhausted from the building.

Applicant Response: There is no evidence, expert analysis, or studies that were offered by any witness to support a finding that scrubbers or other such material would result in any improvement of odor control or which would in any way support such a condition.

6. Groot will landscape the east side of the property if the nature and appearance of the property to the east changes; landscaping at and around the entire site will, within three years of the of the start of site operations, block the site from offsite view, including the building, trucks and trucks traffic at the site, to the fullest extent reasonably possibly.

Applicant Response: As proposed by SWALCO, Groot has agreed that if it obtains control of ownership of the parcel to the east of the subject site, and if it decides to remove the deciduous trees on that parcel such that the natural barrier provided by the trees is no longer sufficient, then Groot must install appropriate landscaping along the eastern border of the property that is consistent with the other existing landscaping and screening on the subject property.

Landscaping around the remainder of the site will be implemented in accordance with the proposed Site / Landscaping Plan that is included within the application and as an attachment to the Host Agreements entered between Groot Industries, Inc. Lake County and between Groot Industries, Inc. and SWALCO. The landscape will be planted at the sizes recommended on the Suggested Plant List and will grow to maturity within three to seven years depending on plant type, weather conditions and fertilization.

7. Groot will record information about and maintain documents regarding its operations including as to compliance with these conditions; Groot will permit inspection of the facility and these documents by the Board and Lake County.

A summary of the records to be retained at the proposed transfer station was provided within the Application. These records will be maintained at the proposed transfer station for a minimum of two years. Additionally, the Host Agreements between Groot, the Village of Round Lake Park, SWALCO, and Lake County further specify record-keeping requirements.

Furthermore, the Village of Round Lake Park, SWALCO, and Lake County are allowed, by agreement, to inspect any and all records maintained by the Company concerning provisions of the Host Agreements, and/or compliance with any and all applicable federal, state and local laws, statutes, regulations, rules and/or ordinances relating to the operation of the Transfer Facility.

Dated: 10-31-13

Groot Industries, Applicant

HINSHAW & CULBERTSON LLP

By: 
RICHARD S. PORTER
One of Its Attorneys

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