

2015 Local Government Excellence Awards Program
Program Excellence Awards Nomination Form
(All programs nominated must have been fully operational for a minimum
of 12 months, prior to January 31, 2015)

Deadline for Nominations Extended to March 30, 2015

Complete this form (sections 1 and 2) and submit with your descriptive narrative.

SECTION 1: Information About the Nominated Program

Program Excellence Award Category (*select only one*):

- Community Health and Safety
- X Community Partnership
- Community Sustainability
- Strategic Leadership and Governance

Name of program being nominated: Mahomet Aquifer Protection Coalition

Jurisdiction(s) where program originated: City of Champaign, IL

Jurisdiction population(s): 81,055

Please indicate the month and year in which the program you are nominating was fully implemented. (Note: All Program Excellence Award nominations must have been fully implemented for at least 12 months prior to January 31, 2015, to be eligible. The start date [on or before January 31, 2014] should not include the initial planning phase.)

Month: April Year: 2012

Name(s) and title(s) of individual(s) who should receive recognition for this award at the ICMA Annual Conference in Seattle, Washington, September 2015. (Each individual listed MUST be an ICMA member to be recognized.):

Name: Dorothy David

Title: City Manager Jurisdiction: City of Champaign, IL

Name: Mark Peterson

Title: Town Manager Jurisdiction: Town of Normal, IL

Name: Ryan McCrady*

Title: City Manager Jurisdiction: City of Decatur, IL

*Note that Ryan McCrady recently resigned as City Manager to become the CEO of the Economic Development Corporation for Decatur and Macon County.

SECTION 2: Information About the Nominator/Primary Contact

Name of contact: Steven C. Carter

Title: Senior Adviser Jurisdiction: ILCMA

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MAHOMET AQUIFER PROTECTION COALITION

In 2011 then Champaign City Manager Steve Carter received a telephone call from a citizen living near the Clinton, Illinois Landfill, asking “Do you know what is going on here?” The caller went on to explain that USEPA Region 5 was getting ready to approve a permit to allow the placement of PCB-contaminated waste in the Clinton Landfill, which is located directly over the Mahomet Aquifer, the source of drinking water for most of East Central Illinois. A quick check with the Illinois Water Survey, which had done several studies of the Aquifer, confirmed that this indeed could pose a risk as there might be soil conditions under the landfill which would allow materials leaked to reach the Aquifer. While the Landfill was located 30 miles west of Champaign, the Aquifer covers a 15 county area from near the Indiana border all the way to Illinois River in central Illinois.

The immediate need was to slow down the USEPA permit process. Additional public comment in the form of letters was solicited from area local governments and from the Illinois Water Survey raising technical questions and seeking additional time. A small group of mayors and staff from Champaign, Urbana and Normal, the Champaign County Board Chair and the Illinois Water Survey staff member who had done the most research on the aquifer met with U.S. Senator Richard Durbin and his staff. Following that meeting, both Senators from Illinois, Durbin and Kirk, sent a letter to USEPA expressing concern about the PCB permit and asking for additional time.

In developing a strategy to address the issue, three broad principles were identified. First, efforts should be based on science and not just “Not In My Back Yard”. Second, efforts should be broad based geographically, to show the broad reliance on the Aquifer, to show more political will, and to share the cost. And, third, efforts needed to be bipartisan. A four-part strategy was then developed: (1) prepare to challenge the PCB permit through litigation; (2) research and apply for a Sole Source Designation under the 1974 U. S. Safe Water Drinking Act; (3) raise public awareness of the Aquifer through educational efforts; and, (4) seek long term protection for the Aquifer through State legislation.

Two intergovernmental coalitions were then created, one to provide funding and other support for the legal work to oppose the acceptance of PCBs and other toxic substances at the Landfill, and the other to seek Sole Source status for the Aquifer. The City of Champaign was identified as the lead agency for both coalitions, providing the principal staff work and serving as the contracting agency. Each member had one vote. Costs were to be shared based on population, with county and the Water Authority shares based on population minus the cities in the coalition. The Lead Agency was to receive a 10% credit in partial reimbursement for their expenses.

Litigation. The coalition created to legally challenge the disposal of toxic substances at the Landfill grew to include 14 members: Champaign (pop. 81,055, Dorothy David, City Manager),

Urbana (pop. 41,250), Savoy (pop. 7,280, Richard Helton, Village Administrator), Normal (pop. 52,497, Mark Peterson, Town Manager), Bloomington (pop. 76,610, David Hales, City Manager), Decatur (pop. 76,122, Ryan McCrady, City Manager), Forsyth (pop. 3,007, David Strohl, Village Administrator), Monticello (pop. 5,374, Floyd Allsop, City Superintendent), Tuscola (pop. 4,480, Drew Hoel, Town Administrator), Champaign County (pop. 64,238, Deb Busey, County Administrator), Macon County (pop. 31,639), McLean County (pop. 40,465, William Wasson, County Administrator), Piatt County (pop. 5,135) and the Mahomet Valley Water Authority (pop. 21,700).

As the lead agency, the City retained the services of the law firm Hasselberg, Williams, Grebe, Snodgrass and Birdsell, and Albert Ettinger, sole practitioner. Their work was divided into three phases: filing a complaint with the Illinois Pollution Control Board (IPCB) to order the Clinton Landfill, Inc. to cease operations of a chemical waste unit, filing of an appeal of that case if necessary, and prosecuting any further challenges in court. A budget of \$83,000 was set for this work.

The most frequent question asked was: “How could this happen?” Investigation revealed that the only local siting review hearing ever conducted by the DeWitt County Board for this portion of the landfill was held in 2002 for a conventional municipal solid waste landfill. A representative of Clinton Landfill, Inc. testified that no PCB contaminated waste or any special wastes regulated by the Federal Toxic Substances Control Act would be accepted. Illinois Environmental Protection Agency (IEPA) issued a permit in 2007, with those substances excluded. In 2008 Clinton Landfill applied to IEPA to modify the permit for a chemical waste unit, and to accept PCB waste and manufactured gas plant (MGP) waste regulated by TSCA. Backed by a team of attorneys and engineers, Clinton Landfill was so confident in getting approvals they needed that they constructed the chemical waste unit to meet the higher standards required for toxic wastes. Shortly thereafter, without any landfill siting process, the DeWitt County Board approved an amendment to their host agreement with Clinton Landfill which allowed the operation of the chemical waste unit and construction of a railroad siding for an additional \$50,000 annually in permit revenue. The notice did not comply with the Illinois Open Meetings Act, but no complaint was filed, and the full impact of the action was not realized by the public for some time. IEPA modified the landfill permit in 2010 to allow the dumping of TSCA regulated waste. And, Clinton Landfill then applied to USEPA for a permit to accept PCB waste.

In November, 2012 the attorneys representing the Coalition filed a Complaint with the IPCB. The complaint sought to have the IPCB order Clinton Landfill, Inc. to cease operation of a chemical waste landfill because the company failed to submit its proposal for the facility to the DeWitt County Board for a local siting review that is required by the Illinois Environmental Protection Act. Shortly after the filing, Clinton Landfill filed a motion to dismiss the complaint, asserting the IPCB did not have authority to consider the complaint. In September, 2013, the IPCB granted the motion to dismiss, explaining that even if IEPA ignored the siting requirement

in modifying the permit, Clinton Landfill did not violate the act because IEPA did issue the permit. Following the IPCB rejection of a motion by the Coalition to reconsider, the Coalition appealed the decision to the Fourth District Appellate Court in January, 2014. The Illinois Attorney General joined that lawsuit in support of the Coalition.

Convinced that IEPA had erred by approving the chemical waste unit permit without the required siting hearing process, a meeting was arranged for the mayors of Champaign, Urbana, Bloomington, Normal and Decatur and their staffs with representatives of the Governor's Office and top IEPA officials, including the Director and General Counsel. The mayors laid out their concerns about the lack of a public siting process in apparent violation of State law and asked the Governor to direct the IEPA to modify their permit for the chemical waste unit to prohibit its acceptance of PCB and MGP wastes. On July 31, 2014, IEPA issue a permit modification for the Clinton Landfill prohibiting the chemical waste unit from accepting MGP and PCB wastes in concentrations regulated by TCSA unless the local siting authority (DeWitt County Board) specifically authorized the disposal of such wastes following a siting process, thus accomplishing what the lawsuit was aimed to do. This modification has been appealed by Clinton Landfill to the IPCB and that appeal is pending. However, the dumping of toxic wastes has been stopped.

Sole Source Aquifer Designation. The second coalition was created to research and apply for Sole Source Aquifer designation, growing to include 15 members: Champaign, Urbana, Savoy, Normal, Mahomet (pop. 7,258, Patrick Brown, Village Manager), Clinton (pop. 7,225, Tim Followell, City Administrator), Watseka (pop. 5,255), Gilman (pop. 1,814), Delevan (pop. 1,677), Mansfield (pop. 1,076), Waynesville (pop. 434), Champaign County, DeWitt County (pop. 16,561), Illinois-American Water Company and the University of Illinois. Champaign City staff and Layne Hydro presentations were made to almost all of the member governing boards as part of the effort to encourage them to join the coalition. It was noted that there were no sole source aquifers in Illinois, and none designated in USEPA Region 5 for 20 years.

In 2012, as lead agency, the City contracted with Layne Hydro, an engineering firm with strong credentials and knowledge of the Mahomet Aquifer. The contract was organized in three phases: (1) research to determine if the aquifer met the criteria in the Safe Drinking Water Act, (2) preparation and filing of the petition to USEPA, and (3) public education and responding to USEPA. questions. The contract amount for all three phases was \$64,250.

Layne Hydro concluded after their study that the Aquifer met the requirements for designation, with 94% of the drinking water for the approximately 800,000 residents in the region coming from the Aquifer with no economically feasible alternative. They completed the application and submitted it to USEPA in December, 2012. Layne Hydro responded to a series of technical questions by USEPA over an extended period of time. USEPA then held two public hearings on May 10 and 11, 2014. Well over 400 citizens attended the hearing in Champaign. Public comment was closed on June 10, 2014.

The potential benefits of the Sole Source designation for the Aquifer are: (1) extra review for Federally funded projects above the Aquifer to insure they would not contaminate the Aquifer; (2) extra notice to all governments in the region to consider actions which may impact the Aquifer; (3) activating a higher set of State standards for future landfills and landfill expansions above the Aquifer; and, (4) a better informed public.

USEPA announced approval of the Sole Source Aquifer designation for the Mahomet Aquifer on March 11, 2015.

Public Education. In order to educate the public about the Aquifer and the challenges facing it, the Coalitions developed partnerships with other organizations in the region, including the WATCH Group (landfill opponents in the Clinton area), the Mahomet Aquifer Protection Association (a citizen group primarily based in the Champaign-Urbana area), Champaign County Health Care Consumers, and local environmental groups. These groups organized five public forums, which were held in Clinton (twice), Monticello, Normal and Champaign. The forums in Normal and Champaign were taped and rebroadcast on the cities' public television channels. They staffed booths and distributed literature at major community events and farmer's markets in Urbana, Bloomington and Clinton. They also wrote articles for local newspapers and spoke to a variety of service clubs, church groups and other venues. Presentations typically included coalition updates, elected official comments and citizen perspectives. And, the public attending these events were asked to contact State and Federal officials to express their concerns. In 2014, advisory referendums were held in both DeWitt and Piatt Counties asking whether toxic chemicals should be accepted in the Clinton Landfill, and in both counties over 90% of the voters said "No."

State Legislation. It is recognized that the only long term solution for protecting the aquifer is legislation. Bills were introduced by local legislators in 2012 and 2013. The purpose of the legislation was to ban any new landfills or landfill expansions above the Aquifer. All the legislators from the region where the Aquifer is located supported the legislation. The bills were assigned to committees, hearings were held, the bills passed out of committee, but died under pressure from the State Chamber of Commerce, the State Manufacturer's Association, and Consolidated Edison, among others. However, there is renewed interest in legislation in 2015, and a new bill has been drafted and passed out of committees in both the Illinois House and Senate.

Conclusions. While this effort still has some work ongoing, even after four years, the primary goal to stop Clinton Landfill from accepting toxic chemicals and putting the source of water for 800,000 people at risk has been accomplished. There is much to commend about this monumental effort:

- The increased public awareness about the value of water and the need to protect it

- The size of the coalition memberships and the ability to share the costs broadly even in tough budget times
- The diversity of the coalitions in terms of urban-rural, large-small, city-county
- The duration of the coalitions and recognition that this is a long term issue
- The partnerships with citizen groups
- The bipartisan support of elected officials

While all the members remained engaged, the staff support from the lead agency, Champaign, and from Decatur and Normal was essential to the success of the coalitions.