

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 2014

ROXANA LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 15-65
	)	(Third-Party Pollution Control Facility
VILLAGE BOARD OF THE VILLAGE OF	)	Siting Appeal)
CASEYVILLE, ILLINOIS; VILLAGE OF	)	
CASEYVILLE, ILLINOIS; and	)	
CASEYVILLE TRANSFER STATION,	)	
L.L.C.,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by J.A. Burke):

On September 8, 2014, Roxana Landfill, Inc. (Roxana), timely filed a petition (Pet.) asking the Board to review an August 6, 2014 decision of the Village Board of the Village of Caseyville (Village). *See* 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 101.300(b), 107.204. The Village granted a Caseyville Transfer Station, L.L.C. (Station) application to site a municipal solid waste transfer station on approximately five acres to be located at the Southwest corner of the intersection of Bunkum Road and the Harding Ditch in Caseyville, St. Clair County. Pet. at 1.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), before the Illinois Environmental Protection Agency can issue a permit to develop or construct a new or expanding pollution control facility, the permit applicant must obtain siting approval for the facility from the local government (*i.e.*, the county board if in an unincorporated area or the governing body of the municipality if in an incorporated area). If the local government approves siting, certain third parties may appeal the local government's decision to the Board. *See* 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 107.

In this case, Roxana appeals on the grounds that the Village did not have proper jurisdiction to conduct the local public hearing or make a decision on the Station's siting application. Pet. at 2. Further, the official filing of the siting application with the Village may not have occurred on the date stated in the pre-filing notice. *Id.* at 3. Further, Roxana appeals on the grounds that Criteria (i) through (ix) were not met by the Station; and the Village's approval of the Station's siting application on those criteria is not supported by the record and is against the manifest weight of the evidence. *Id.* Roxana also appeals on the grounds that the local siting review procedures were fundamentally unfair. *Id.* For the reasons below, the Board accepts the petition and directs the Board's hearing officer to set this matter for hearing.

### **THIRD-PARTY APPEAL**

Section 40.1(b) of the Act (Act) (415 ILCS 5/40.1(b) (2012)) allows third parties to appeal a local government decision granting approval to site a pollution control facility if the third parties participated in the local government's public hearing and are so located as to be affected by the proposed facility. *See* 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 107.200(b). The petition for review must, among other things, specify the grounds for appeal and include a copy of the local government's siting decision. *See* 35 Ill. Adm. Code 107.208. The third party must file the petition within 35 days after the local government approves siting. *See* 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 107.204. Unless the Board determines that the third party's petition is "duplicative or frivolous," the Board will hear the petition. 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 107.200(b).

Roxana's petition states that it participated in the Village's public hearing and that it is so located as to be affected by the proposed facility. Pet. at 2. Roxana specifies the grounds for the appeal and includes a copy of the Village's siting decision. The petition meets the content requirements of 35 Ill. Adm. Code 107.208. Roxana also filed its petition within 35 days after the Village's approved siting.

### **HEARING AND DECISION DEADLINE**

An action before the Board is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. An action before the Board is frivolous if it is "a request for relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* No evidence before the Board at this time indicates that this action is duplicative or frivolous. The Board accepts Roxana's petition and directs the Board's hearing officer to set this matter for hearing.

Roxana has the burden of proof. *See* 415 ILCS 5/40.1(b) (2012); 35 Ill. Adm. Code 107.506. Hearings will be based exclusively on the record before the Village, except that, if relevant, evidence may be introduced on (1) the local government's jurisdiction over the siting application and (2) the fundamental fairness of the procedures used by the local government in reaching its decision. *See* 415 ILCS 5/40.1(b) (2012); *Land & Lakes Co. v. IPCB*, 319 Ill. App. 3d 41, 48, 743 N.E.2d 188, 194 (3d Dist. 2000). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.1(a), (b) (2012)), which only the Station may extend by waiver (35 Ill. Adm. Code 107.504; *see also* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the Station "may deem the site location approved." 415 ILCS 5/40.1(a) (2012). Currently, the decision deadline is January 6, 2015, which is the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 107.504. The Board meeting immediately before the decision deadline is scheduled for December 18, 2014.

### **VILLAGE'S RECORD**

The Village must file the entire record of its proceedings within 21 days after the date of this order. *See* 35 Ill. Adm. Code 107.302. The record must comply with the content and

certification requirements of 35 Ill. Adm. Code 107.304, 107.308. Roxana must pay to the Village the cost of preparing and certifying the record. 415 ILCS 5/39.2(n) (2012); 35 Ill. Adm. Code 107.306.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 18, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Clerk  
Illinois Pollution Control Board