

ILLINOIS POLLUTION CONTROL BOARD  
April 7, 2016

BRICKYARD DISPOSAL & RECYCLING, )  
INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 16-66  
 ) (Permit Appeal - Land)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

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

Brickyard Disposal & Recycling, Inc. (Brickyard), appeals an Illinois Environmental Protection Agency (Agency) permit denial concerning Brickyard’s municipal solid waste landfill facility at 601 Brickyard Road in Danville, Vermilion County. For the reasons below, the Board accepts the petition for review.

Where the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency’s decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2014); 35 Ill. Adm. Code 105.Subpart D. In this case, the Agency determined that Brickyard’s landfill expansion application was incomplete because: (1) it sought development of a “new pollution control facility” which required new local siting prior to Agency review; and (2) Brickyard was required to submit a new Groundwater Impact Assessment as part of a complete permit application for facility expansion. Brickyard appeals on the grounds that: (1) the Agency did not give a sufficiently specific or detailed rationale for the legal conclusions reached; (2) the Act and relevant regulations do not provide a valid basis for the Agency’s decision, which Brickyard states limits local siting decisions via Agency permit decisions; and (3) the conclusion that the application seeks to permit a “new pollution control facility” for which new siting is required, and constitutes a “facility expansion” for which a new Groundwater Impact Assessment is required, misconstrues the Act and existing Board regulations. Brickyard’s petition meets the content requirements of 35 Ill. Adm. Code 105.210, and the Board accepts the petition for hearing.

Brickyard has the burden of proof. 415 ILCS 5/40(a)(1) (2014); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Information developed after the Agency’s decision typically is not admitted at hearing or considered by the Board. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline, which only Brickyard may extend by waiver. 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Brickyard “may deem the permit issued.” 415 ILCS 5/40(a)(2) (2014). Currently, the decision deadline is July 27, 2016, which is

the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 21, 2016.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 28, 2016, which is 30 days after the Board received Brickyard's petition. *See* 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2016 by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Clerk  
Illinois Pollution Control Board