

ILLINOIS POLLUTION CONTROL BOARD  
May 16, 1996

LAND AND LAKES COMPANY, )  
 )  
 Petitioner, )  
 ) PCB 96-198  
 v. ) (Variance - Land)  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Yi):

On March 18, 1996, Land And Lakes Company filed a petition for variance regarding its facility located in Dolton, Cook County, Illinois. On March 21, 1996 the Board inadvertently accepted this matter for hearing. The Board, on its own motion, vacated the March 21, 1996 order and held this matter awaiting the Agency recommendation. The Agency filed its recommendation on April 11, 1996.

On April 18, 1996 the City of Chicago Department of Environment (City) filed an objection and request for hearing. Land and Lakes Company (Land and Lakes or petitioner) filed a motion to strike the City's objection and request for hearing on April 26, 1996. Land and Lakes argues that the request should be stricken because it is time-barred and is arbitrary and capricious. On April 30, 1996 petitioner filed a waiver of the decision deadline extending the Board's decision deadline to September 6, 1996.

Land and Lakes seeks a variance from 35 Ill. Adm. Code 814.104(c) for a period of six months from the current deadline of March 19, 1996 to September 19, 1996. As the Agency notes in its recommendation, this would be petitioner's sixth extension from the requirement of filing a significant modification application for its landfill in Dolton, Illinois. Additionally, Land and Lakes is requesting retroactive relief, in that the significant modification application was to be filed on March 19, 1996.

Pursuant to Section 37(a) of the Act "...if the Board in its discretion, concludes that a hearing would be advisable, or if the Agency or any other person files a written objection to the grant of such variance within 21 days, together with a written request for hearing, then a hearing shall be held...". (415 ILCS 5/37(a).) For these reasons stated above, the Board finds in its discretion that a hearing would be advisable. This matter is accordingly set for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as

extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Board will assign a hearing officer to conduct hearings consistent with this hearing, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now September 6, 1996.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Board, hereby certify that the above order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, by a vote of \_\_\_\_\_.

---

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board