

ILLINOIS POLLUTION CONTROL BOARD
June 15, 1995

COMMUNITY LANDFILL CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 95-137
)	(Variance-Land)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (J. Theodore Meyer):

This matter is before the Board regarding two written objections to the variance requested in this case.

Community Landfill Corporation (CLC) filed its Petition for Variance on April 26, 1995, requesting a 12-month variance from 35 Ill. Adm. Code 814.104(c) which sets forth the filing deadline for application for significant modification to existing unit permits. CLC's petition contained a waiver of hearing request (Pet. at p.12.) The Illinois Environmental Protection Agency (Agency) published notice of the petition on May 17 1995, and filed its recommendation on May 30, 1995. CLC filed its response on June 6, 1995.

On June 7, 1995, the Board received an unsigned letter which objected to the granting of the requested variance in this matter. The Board also received a written objection to the variance and a request for hearing from Jean Ann Robinson on behalf of the Grundy County Office of Solid Waste Management. The Board notes that this letter was sent by certified mail on June 6, 1995, but was not received until June 13, 1995.

Section 37(a) of the Illinois Environmental Protection Act (Act) states:

"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)(1992).)

Although the letter filed on June 7, 1995 contained a written objection to the variance in this matter, it did not contain a written request for hearing. Therefore, the Board will accept this letter as a public comment under Section 104.183 of the Act. (35 Ill. Adm. Code 104.183 (1994).)

The June 13, 1995 letter of objection from Jean Ann Robinson

did contain a written request for a hearing, and since it was mailed before the 21-day period, this matter is set for hearing. However, the Board is also bound by the 120-day decision deadline, which, in this case, is August 18, 1995. Absent a waiver of the decision deadline in this case, all parties should be aware of the tight timeline in this case.

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 Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

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 August 24, 1995; the Board meeting immediately preceding the due date is scheduled for August 17, 1995.

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. Pursuant to Board rules (35 Ill. Adm. Code 104.180) the Agency filed its recommendation that the petition be denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of June, 1995, by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board