

ILLINOIS POLLUTION CONTROL BOARD  
December 2, 1993

LAND AND LAKES, COMPANY, JMC )  
OPERATIONS, INCORPORATED, and )  
NBD TRUST COMPANY OF ILLINOIS )  
AS TRUSTEE UNDER TRUST NO. )  
2624EG, )  
 )  
Petitioners, )  
 )  
v. ) PCB 92-25  
 ) (Landfill Siting  
 ) Review)  
VILLAGE OF ROMEOVILLE, )  
 )  
Respondent, )  
 )  
COUNTY OF WILL, and THE PEOPLE )  
OF THE STATE OF ILLINOIS, )  
 )  
Intervenors. )

ORDER OF THE BOARD (by M. Nardulli):

This matter is before the Board on its own motion. On June 30, 1993 the Appellate Court for the Third District of Illinois reversed and remanded the Board's opinion and order in PCB 92-25. PCB 92-25 is a landfill siting review matter which incorporated materials and considered issues first raised in PCB 91-7.

In PCB 91-7, the Board's order of August 26, 1991 held that the Village of Romeoville failed to comply with Section 39.2(d) of the Environmental Protection Act (415 ILCS 5/39.2(d)(1992)). The Board found the Village's decision was void and, therefore, approval of the siting was granted by operation of law. Upon reconsideration, the Board on December 6, 1991, reversed itself and vacated its August 26, 1991 order, finding that the Village had in fact given proper notice. The Board also found that the Village had not issued a definitive approval or denial on criterion 1. The matter was then remanded to the Village for determination solely as to criterion 1. On January 3, 1992, the Board closed PCB 91-7 and directed petitioners to file a new petition for review should they wish to contest the Village's decision on remand.

Petitioners appealed the Board's December 6, 1991 decision to the appellate court. On June 30, 1992, the court granted the Board's motion to dismiss, finding that the Board's December 6, 1991 decision was interlocutory and not subject to review.

On remand, the Village again denied siting approval. On February 13, 1992, petitioners again filed a petition for review with the Board of the Village's decision and requested

incorporation of materials from PCB 91-7. On June 4, 1992, in new Board docket PCB 92-25, the Board approved the incorporation of the materials from PCB 91-7 and upheld the Village's denial of siting approval.

On July 1, 1992, petitioners filed with the Appellate Court for the Third District of Illinois a petition for review of the Board's decision in PCB 91-7 and PCB 92-25. The appellate court issued a decision on May 27, 1993, and a modified decision on June 30, 1993, reversing the Board and remanding the matter to the Village. The appellate court stated:

We conclude that, based upon the record, the Board erred when it did not remand this cause to the Village with instructions that the Village conduct a completely new public hearing to assure fundamental fairness in the administrative process. For the reasons indicated, we reverse the rulings of the Board and remand the cause to the Village so it can hold a new public hearing on the petitioners' application for expansion of the landfill.

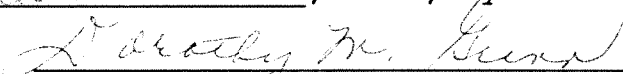
Land and Lakes v. Village of Romeoville (3rd Dist. June 30, 1993), No. 3-92-0496, slip op. at 19.

Respondent's petition for leave to appeal from appellate court was denied by the Illinois Supreme Court on October 6, 1993. The Board received notice of the appellate court's mandate on November 17, 1993.

The Board notes that the appellate court remanded this matter directly to the Village for a new hearing. Thus, the matter before the Board is concluded and PCB 92-25<sup>1</sup> is hereby closed. Any appeals of the Village's decision on remand may be made to the Board pursuant to Section 40.1(a) of the Act, at which time the Board will open a new docket.

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 2<sup>nd</sup> day of December, 1993, by a vote of 2-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

<sup>1</sup> We note that both PCB 91-7 and PCB 92-25 were before the appellate court. However, the Board had previously closed PCB 91-7; thus PCB 92-25 was the only matter still before the Board prior to this order.