

ILLINOIS POLLUTION CONTROL BOARD
October 21, 1993

MUNICIPAL SOLID WASTE)
LANDFILLS,)
(Village of Winnetka,)
Randolph County Landfill,)
Lawrence County Disposal Centre)
City of Peru)
Landfill 33, Ltd. - Effingham)
City of Salem))
)
Petitioners,)
)
v.) PCB 93-190
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

ORDER OF THE BOARD (by G. T. Girard):

This matter comes before the Board on the petition for variance filed by the IEPA (Agency) on behalf of all municipal solid waste landfills (MSWLF) that qualify for the federal extensions set forth in 40 CFR 258.1(e)(1), and existing MSWLF units or lateral expansions thereof receiving flood-related waste from federally designated disaster areas that are certified by the State as necessary for the flood-related clean-up of household waste pursuant to 40 CFR 258.1(e)(3). The original petition identifies 31 eligible landfills. The petition seeks relief from the requirements of P.A. 88-496, Sections 21(d)(1), 22.17(a)(5), (10), and 22.17(b) from October 8, 1993 until April 9, 1994.

On October 20, 1993, the Agency filed an amended petition accompanied by a motion for leave to file instanter, which is hereby granted. The amended petition identifies 43 landfills who may be eligible for relief. ¹

¹ As identified by the Agency, these are Western Lion Ltd., Kewanee Municipal, Winnetka Municipal, Carlinville Landfill, D&B Landfill, Viola Landfill, W.W. Sanitation, Illinois Landfill, Salem Municipal #2, Land & Lakes/Dolton, Jennings Brothers Landfill, Laidlaw-Belleville, Pekin Metro Landfill, K&H Landfill, Paxton Municipal, Berger Landfill, Pike County Landfill, Marissa Municipal, Oglesby Municipal, Henry County Landfill, D&L Landfill, Streator Area Landfill, States Land Improvement, Dixon Municipal Group #2, LeRoy Brown & Sons, Grimm, Herrin Municipal Landfill, Woodford-Marshall Landfill, Whiteside County, Peoria Disposal Co., Peru Municipal #2, Randolph County, Fulton County, Alton Municipal, Dowty, Landfill 33 Ltd., Lake County Grading, Saline County,

The petition states that:

Public Act ("P.A.") 88-496, approved September 13, 1993, specified the date of October 9, 1993 as the compliance date for compliance with the requirements of 40 CFR Part 258. On October 1, 1993, 40 CFR Part 258 was amended to extend the compliance deadline from October 9, 1993 to April 9, 1994 for certain facilities. Public Act 88-496 has not been amended to reflect this change.² However, Section 22.41(b) of the P.A. 88-496 specifically designated the federal regulations of 40 CFR Part 258 as Board rules adopted under the Act. Section 22.41(b)(3) authorizes the Board to adopt an alternate schedule that is not inconsistent with the federal regulations.³ In adopting P.A. 88-496, the Legislature intended the State program to parallel the Federal program as is evidenced by Section 20(a)(12) of the Act which states, "it would be inappropriate for the State of Illinois to adopt a solid waste management program that is less stringent than or conflicts with federal law". 415 ILCS 5/20(a)(12) (1992) (As amended by P.A. 88-496).

Procedurally, the Agency suggests that variance should be granted only to those landfills that affirmatively opt into the class by sending notice to the Board and the Agency of their intention to join the class and their payment of the proper filing fees with the Board by October 29, 1993, and a demonstration they are eligible for an extension as set forth in this petition for variance.

The Agency's procedural suggestion is acceptable to the Board. The Board observes that, as of 10:30 a.m. on October 21,

Laidlaw Waste Systems, and Rochelle Municipal #2.

² The Board notes the pendency of HB 299, which presently seeks to amend P.A. 88-496 to include some, but not all, of the USEPA's October 1, 1993 amendments to 40 CFR Part 258.

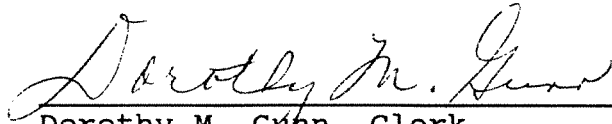
³ On September 15, 1993, the Board adopted rules "identical in substance" to USEPA RCRA Subtitle D rules at 40 CFR Part 258. (Docket R93-10). The Board's rules contain the deadline extension from October 9, 1993 to April 9, 1994 published by the USEPA on October 1. P.A. 88-496 provides that the rules become effective only upon USEPA approval. USEPA and the Agency have each requested an extension of time until October 30 in which to file comments prior to Board filing of the rules. USEPA requested the additional time to allow it to review the rules in conjunction with its review of the Agency's Subtitle D program approval application.

six landfills had submitted filings to become part of the class.⁴

To facilitate future computer searches of the Board's orders, we have captioned this action consistent with 35 Ill. Adm. Code 101.Appendix A, Illustration D, and will enter petitioners' names as appropriate filings arrive. Even though this action was initiated by the Agency, the Board will not take action in this matter prior to receipt of an Agency Recommendation as required by Section 38(a) of the Act and 35 Ill. Adm. Code 104.180. The Agency need not repeat any information contained in the amended petition which is unchanged, but is requested to provide the usual information concerning publication of public notice as well as its outreach to members of the eligible class. The Board does not intend to hold a hearing in this matter on its own motion.

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 21st day of October, 1993, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

⁴ The Board notes that not all filings included forms suggested by the Agency. The Board will consider all of these landfills to have timely "opted-in" to this variance request. However, to facilitate review, the Board directs the Village of Winnetka to obtain forms from the Agency and return them completed to the Board on or before November 1, 1993.