

ILLINOIS POLLUTION CONTROL BOARD
April 25, 1991

LAND AND LAKES COMPANY, JMC)	
OPERATIONS, INC. and NBD)	
TRUST COMPANY OF ILLINOIS,)	
AS TRUSTEE UNDER TRUST)	
NO. 2624EG,)	
)	
Petitioners,)	
)	
v.)	PCB 91-7
)	(Landfill Siting Review)
VILLAGE OF ROMEOVILLE,)	
)	
Respondent,)	
)	
COUNTY OF WILL,)	
)	
Intervenor.)	

ORDER OF THE BOARD (by J. Anderson):

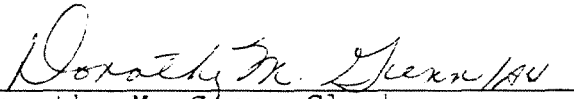
On March 22, 1991, Land and Lakes Company, JMC Operations, Inc. and NBD Trust Company of Illinois, as Trustee under Trust No. 2624EG, ("Land and Lakes") filed a Motion for Certification of Interlocutory Appeal. In paragraph 3C of that motion, Land and Lakes extended the statutory decision deadline in this matter to 120 days following the Board's receipt of the Appellate Court's mandate on the issue certified for interlocutory appeal. On or about April 9, 1991, Land and Lakes was advised to file a proper waiver in accordance with 35 Ill. Adm. Code 101.105 (i.e. either a waiver to a calendar date certain or an open waiver). On April 10, 1991, Land and Lakes filed a waiver, via telefax, extending the Board's August 27, 1991 decision deadline to December 27, 1991. The Board received a hard copy of the waiver on April 15, 1991. On April 11, 1991, the Board denied Land and Lakes' Motion for Certification of Interlocutory Appeal. On April 17, 1991, Land and Lakes filed a purported withdrawal of its decision deadline waiver. In support of its withdrawal, Land and Lakes states that its waiver was intended to be effective only in the event that the Board granted its Motion for Certification of Interlocutory Appeal and that, because the Board denied its motion, the condition precedent to the effectiveness of the waiver had not been met.

The Board does not allow waivers of decision deadlines to be withdrawn. Moreover, we note that Land and Lakes' waiver was not conditioned on the Board's grant of the Motion for Certification of Interlocutory Appeal. Even if the waiver were to be construed

as a conditional waiver, 35 Ill. Adm. Code 101.105 provides, in part, that "a contingent waiver is not acceptable." Accordingly, in light of the above, we will not allow Land and Lakes to withdraw its waiver. However, we will construe the withdrawal as a motion for expedited consideration and will make every attempt to dispose of this matter by the August 27, 1991 decision deadline. The hearing officer is directed to enter a scheduling order, consistent with this Order, that will ensure completion of the hearing and all briefs so that the Board can make every effort to decide this matter at its August 22, 1991 Board meeting.

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 25th day of April, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board