

Section 40.1(a) provides that if there is no final action by the Board within 90 days, petitioner may deem the site location approved.

The Board has construed identical "in accordance with the terms of" language contained in Section 40(b) of the Act concerning third-party appeals of the grant of hazardous waste landfill permits as giving the respondent who had received the permit a) the right to a decision within the applicable statutory time frame (now 120 days), and b) the right to waive (extend) the decision period (Alliance for a Safe Environment, et al. v. Akron Land Corp. et al., PCB 80-184, October 30, 1980). The Board therefore construes Section 40.1(b) in like manner, with the result that failure of this Board to act in 120 days would allow respondent to deem the site location approved. Pursuant to Section 105.104 of the Procedural Rules, it is each petitioner's responsibility to pursue its action, and to insist that a hearing on its petition is timely scheduled in order to allow the Board to review the record and to render its decision within 120 days of the filing of the petition.

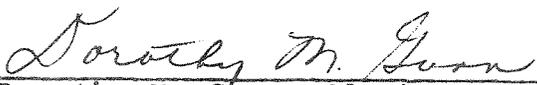
Transcription Costs

The issue of who has the burden of providing transcription in Board site location suitability appeals has been addressed in Town of Ottawa, et al. v. IPCB, et al., 129 Ill. App. 3rd, 472 N.E. 2d 150 (Third District, 1984). In that case, the Court ordered the Board to assume transcription costs (472 N.E. 2d at 155). The Supreme Court denied leave to appeal on March 14, 1985.

In cognizance of this ruling, the Board will provide for stenographic transcription of the Board hearing in this matter.

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 November, 1985 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board