

ILLINOIS POLLUTION CONTROL BOARD  
September 6, 1984

INDUSTRIAL SALVAGE, INC., )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 83-173  
 )  
 COUNTY BOARD OF MARION, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by B. Forcade):

On August 20, 1984, Industrial Salvage, Inc. ("Industrial") filed a "Petition for Reconsideration" requesting that the Board reconsider its Opinion and Order of August 2, 1984. Industrial presents no new facts or circumstances in support of its petition, but merely re-argues the relative strengths and weaknesses of the evidence presented at hearing. The motion for reconsideration is granted.


Industrial asserts that the changing definition of need in criterion number one, as defined in E & E Hauling, Waste Management I and Waste Management II, provided a moving target for Industrial's burden of proof, thus making the Marion procedure fundamentally unfair. This argument is rejected. Industrial has not claimed that any action or inaction by Marion gave rise to a fundamentally unfair proceeding. Industrial had an opportunity to present all the evidence it possessed on the need criterion, contemporaneous or subsequent judicial opinions did not impair that right.

The Board notes that while Industrial accurately characterizes the evidence presented by siting opponents as somewhat weak, its own evidence suffered from the same deficiencies. Industrial had the burden, in this proceeding, to support its position by the preponderance of the evidence. The County Board may have properly found against Industrial and that decision was not against the manifest weight of the evidence. The Board's August 2, 1984 Opinion and Order is affirmed.

IT IS SO ORDERED.

Board Member J. Anderson dissented and Board Member J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6<sup>th</sup> day of September, 1984 by a vote of 5-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board