ILLINOIS POLLUTION CONTROL BOARD October 14, 1982

WASTE MANAGEMENT OF ILLINOIS, INC.,

Petitioner,

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v.

LAKE COUNTY BOARD,

Respondent.

ORDER OF THE BOARD (by J. Anderson):

On October 1, 1982 Waste Management moved the Board to order a) that Lake County clarify its September 14, 1982 decision and b) that hearing be held within 21 days. Lake County filed its response October 13. On October 12, 1982 the Board also received what purports to be the "intervenor Village of Antioch's response". No petition for leave to intervene has been filed with the Board pursuant to Procedural Rule 310. As the existing landfill (expansion of which into unincorporated Lake County is the subject of this appeal) is located in Antioch, the Board will waive this procedural defect, will grant Antioch intervenor's status, and will consider the October 12 filing.

Waste Management has, in effect, asked the Board either to direct Lake County to reconsider its decision, or alternatively to grant a "summary judgment" prior to hearing. A request for reconsideration should have been made directly to Lake County. Once a county's final action has been submitted to the Board for review, Section 40.1 clearly provides that the Board and the parties are bound by the county record, including its written decision: the Board's review of the county's action on the merits is to take place only after the mandatory public hearing. There is no statutory provision for a "summary judgment". Waste Management's motion is denied.

In their filings, the parties have presented arguments concerning the applicability of Lambert v. Saline County, PCB 82-47, September 15, 1982 to the County Board's September 14,

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1982 decision.\* These arguments should be presented at hearing or in post-hearing briefs for the Board's consideration with the case.

Waste Management wishes to have hearing expedited because the site, which allegedly receives one-third of Lake County's waste, has only about eight months of remaining capacity. Lake County has requested sixty days to prepare for hearing, in part because it is obliged to prepare and certify a "voluminous" record, which petitioner has stated consists of 2410 pages of transcript and 39 exhibits.

Waste Management's motion to expedite is granted in part. To insure both that the parties are well prepared for hearing and that the Board receives ample time to review a lengthy record, hearing shall be scheduled within 15 and held within 45 days of the date of this Order. (Thus, hearing is then to be held no later than approximately the 60th day of the 90 day decision period.) Petitioner is reminded that, pursuant to Procedural Rule 504, transcripts are to be filed within 14 days of the completion of hearing; delay constitutes a pro\_tanto waiver.

\*Waste Management's quotation from <u>Lambert</u>, p. 5 reveals a typographical error in the certified copy of that Opinion: a misplaced quotation mark. The relevant portions of the sentence in question should read

"(T)he Board wishes to emphasize that Section 39.2(e) requires the local officials to specify the 'reasons for the decision, such reasons to be in conformance with the six criteria', each of which should be separately listed and discussed."

The "listed and discussed" language incorrectly appeared within the quotation mark. The Clerk is directed to have this error corrected.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby gertify that the above Order was adopted on the  $14^{11}$  day of <u>Cloud</u>, 1982 by a vote of <u>S-O</u>.

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Christan L. Moffett, (Werk Illinois Pollution Control Board