

At their request Petitioners were ordered to file their brief by December 7, 1982 (Board hearing, page 112). Respondents' briefs were due seven days thereafter. To date the Board has received no briefs. In that a decision is due by January 6, 1983, the Board has decided this case on the last scheduled meeting prior to the due date.

The proposed landfill is located on a 230 acre site north-east of Route 15 (Missouri Avenue) in the City of East St. Louis. It is an irregular tract situated within the SW 1/4 of T2N, R9W of the 3rd P.M. It is bounded on the southwest by Missouri Avenue, on the southeast by the Alton and Southern Railway, on the north by "Louisiana Boulevard", also known as "Lake Avenue" or "Lake Drive", and on the northwest by unidentified railways. The site is near the southeastern edge of East St. Louis, north of Alorton and Centreville, and west of Grand Marais State Park (Applicant's Ex. 12, p. 3, figures 1 & 2). The proposed site is designed to accept general municipal refuse and non-hazardous special waste other than liquids.

The site was formerly occupied by Alcoa, a primary aluminum manufacturer. It is now owned by the City pursuant to a quit-claim deed from the Southwest Regional Port District. Only two buildings now stand. The rest of the site is covered with "red mud", a clay-like residue left from the extraction of alumina from bauxite. The site includes a large mound of red mud, but it is mostly level and above the surrounding grade (R48, 59; Applic. Ex. 15B).

East St. Louis at one time hauled its garbage north to the Milam landfill (R-24). This was terminated when the City was unable to pay some \$58,000 in accumulated user fees. This was caused by the City's inability to collect a \$2 per month garbage collection fee and by the general erosion of its tax base.

East St. Louis then started conducting an unpermitted general waste operation on the site in question. Eventually the City was enjoined by the Circuit Court from conducting further landfill operations at the site.

Presently the City is hauling its garbage to Milstadt, which involves a 44 mile round trip. Besides the obvious problems of excessive fuel and labor expense associated with this, the City experiences excessive maintenance costs and sometimes is unable to pick up garbage on schedule because of inadequate serviceable equipment (R-22).

Following the injunction the City began negotiating with Waste Management concerning development of a permitted landfill to be operated by the latter at the site. This culminated in an agreement signed May 20, 1981 (Applic. Ex. 2). The agreement

provides for 10% of the gross receipts to be paid to East St. Louis. It is terminated without penalty in the event necessary permits and approvals are not issued.

The City estimates that the proposed site will save it some \$200,000 to \$250,000 per year, while allowing it to improve collection service (R-37). In addition, the City will actually receive revenue from the landfill, and local jobs will be created as opposed to the present system which transfers funds out of the City. Furthermore, the surrounding landfills are expected to be phased out soon, leaving a need for a regional facility (Applic. Ex. 6).

The facility is expected to receive waste from East St. Louis and the surrounding area. It will have an expected life-time of 15 years. The waste pile will reach an ultimate height of 110 to 120 feet above Missouri Avenue. It will be graded, covered and seeded as it is completed. The site will then be left as open space (R-161).

The objections to the siting voiced at the municipal hearing reflected such concerns as: fear of the adequacy of the synthetic liner; permeability of the underlying soil; the site becoming a hazardous waste landfill; reduction in property values; possible unlawful use of residential streets for access to the site; repetition of the odor and vector problems which resulted from the City's unpermitted dump site; aggravation of runoff problems during rainfall; and overloading sewers and the treatment plant as a result of the plan to pump leachate from the collection system to the City's sanitary sewers.

A number of citizens commented that Waste Management might be professionally able, but they didn't want a site inside the City limits.

Waste Management and the City made their witnesses available for public questions concerning these matters. Several specific assurances were given:

1. The site would never accept hazardous waste, or liquid waste in any form, although municipal-type sewage treatment plant sludge might be accepted.
2. Access to the site would be limited to a single paved entrance road off Missouri Avenue.
3. A buffer zone of 400 to 600 feet would be maintained between the operational area and the nearest residences.

After the hearing before the Community Block Grant Committee, the City, on September 8, 1982, adopted, on a mayoral tie-breaker vote, an ordinance approving the site application and adopting the Committee's findings and recommendations. After finding that the required notices had been given, and acknowledging the receipt of objections, the City gave the following reasons required under Section 39.2 of the Act:

1. That all exhibits tendered and considered by this Committee be received in evidence.
2. That the facility is necessary to accommodate the waste needs of the region, particularly in view of its western proximity to densely populated areas and the fact that other sanitary landfill services may be phased out in a year or less in the St. Clair and Madison County areas abutting the City of East St. Louis.
3. That the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected, the uncontroverted evidence being that the Applicant, WASTE MANAGEMENT OF ILLINOIS, INC., is experienced in the operation of similar facilities and has demonstrated by its reputation within the State of Illinois of a highly efficient system of operations to protect the public health and welfare.
4. That the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property, the evidence being undisputed that the property is located in a suitably zoned area, i.e., heavy manufacturing, and that immediately adjacent to the proposed site that it is primarily surrounded by heavy industrial facilities with a few residential properties abutting to the Site. Further, it is evident from the testimony that the operation of the landfill facility will not adversely affect the value of the surrounding property.
6. That the plan of operation for the facility, as submitted by WASTE MANAGEMENT OF ILLINOIS, INC., is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.
7. That the traffic patterns to and from the facility are so designed so as to minimize the impact on existing traffic flows, and there will be no material change in the existing access and traffic patterns,

and the proposed ingress and egress to the facility, when considering the overall times of use as to the abutting highways will only result in a minimal increase of traffic and that the existing highways abutting the site are adequate to provide non-disruptive access during the proposed life expectancy of the facility.

The Board notes that the City's resolution contains no paragraph 5, and does not address Section 39(a)(4) of the Act which requires that the facility be outside the 100 year flood plain as determined by the Illinois Department of Transportation (IDOT), or that it be floodproofed to meet IDOT standards and be approved by IDOT.

Applicant's Ex. 18 is a letter from IDOT stating that: the site is within the 100 year floodplain; it does not require an IDOT permit in that it is not within a floodway; it will meet IDOT standards and requirements for floodproofing; and, it is approved by IDOT subject to issuance of Agency permits. The Board finds that the omission of paragraph 5 was an inadvertent error by the City. Based on the IDOT letter, which was before the City, the Board finds that the facility meets the requirements of Section 39(a)(4).

The petitioners filed this appeal to the Board after the site suitability was approved by the City. The petitioners raised the following issues on appeal:

That the action of the City of East St. Louis in approving the application of respondents was against the manifest weight of the evidence presented at the public hearing and was contrary to the provisions of Public Act 82-682, for the following reasons:

- a. The pre-public hearing procedure of the respondents contravened the public involvement provisions of Public Act 82-682, which require notice to owners within 250 feet in all directions of the boundary of the proposed site.
- b. The evidence presented at the public hearing failed to establish:
 - (1) The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
 - (2) The facility is located so as to minimize incompatibility with the character of the

surrounding area and to minimize the effect on the value of the surrounding property.

- (3) The plan of operation for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.
- (4) The traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows.

- c. The manner in which the public hearing was conducted was unfair in that the petitioners were not permitted to cross-examine witnesses in support of respondents' application.

At the Board hearing, the petitioners and other objectors testified and presented statements, petitions and exhibits in opposition to the siting on grounds similar to those raised at the municipal hearing. Waste Management and the City appeared at the Board hearing but presented no additional testimony.

Petitioners presented no evidence whatsoever suggesting that the notice to owners was in any way deficient.

Most of petitioners' case centered on introduction of the same and additional evidence tending to contradict the findings which the City made with respect to the design and proposed operation, compatibility with and effect on the value of surrounding property, danger of operational accidents and traffic patterns. The hearing officer accepted the testimony and exhibits over Waste Management and the City's objections, leaving it to the Board to rule on admissibility. The Board finds that, with the exception below, the testimony and exhibits are inadmissible under Section 40.1(a) of the Act, in that they are additional evidence in opposition to the site location suitability.

In its case in chief petitioners offered no evidence suggesting that the public hearing was unfair or that petitioners were not permitted to cross examine the witnesses in support of the application. However, this was touched on in the statement of James Blevens (Board hearing, p. 106). He complains that the municipal hearing was fundamentally unfair in that citizens were not given an opportunity to ask questions or to present rebuttal evidence. The Board disagrees. The hearing specifically provided a format, which was announced beforehand, for questioning of, and rebuttal to, the formal witnesses, who sat as a panel after their presentations were finished. A reading of the Committee hearing of August 17 demonstrates that the

public was given an adequate opportunity to question witnesses and to comment on the proposal. The Board finds that the procedures were fundamentally fair under Sections 39.2 and 40.1 of the Act.

The Board finds that the City's determination to approve the site location suitability, as supplemented by the Board's finding on paragraph 5, is not against the manifest weight of the evidence in the transcript and exhibits of August 17, 1982.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The decision of the City of East St. Louis approving the site location suitability in question is affirmed.

IT IS SO ORDERED.

Chairman Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 30th day of December, 1982 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board