

ILLINOIS POLLUTION CONTROL BOARD
June 19, 2003

LOWE TRANSFER, INC. and MARSHALL)	
LOWE,)	
)	
Petitioners,)	
)	
v.)	PCB 03-221
)	(Pollution Control Facility
COUNTY BOARD OF MCHENRY)	Siting Appeal)
COUNTY, ILLINOIS,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On June 5, 2003, Lowe Transfer, Inc. and Marshall Lowe (petitioners) timely filed a petition asking the Board to review the May 6, 2003 decision of County Board of McHenry County, Illinois (McHenry County). *See* 415 ILCS 5/40.1(a) (2002); 35 Ill. Adm. Code 107.204. McHenry County denied the petitioner’s request for application to site a pollution control facility located on U.S. Route 14 McHenry County.

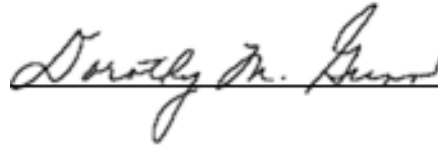
Section 40.1(a) of the Environmental Protection Act (415 ILCS 5/40.1(a) (2002)) authorizes the petitioners appeal to the Board. The petitioners appeal on the grounds that McHenry County’s decision to deny citing was against the manifest weight of the evidence. The petitioner’s petition meets the content requirements of 35 Ill. Adm. Code 107.208. The Board accepts the petition for hearing.

The petitioners have the burden of proof. 415 ILCS 5/40.1(a) (2002); *see also* 35 Ill. Adm. Code 105.506. Hearings will be based exclusively on the record before McHenry County. 415 ILCS 5/40.1(a) (2002). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.1(a) (2002)), which only the petitioners may extend by waiver (35 Ill. Adm. Code 107.504; *see also* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the petitioners “may deem the site location approved.” 415 ILCS 5/40.1(a) (2002). Currently, the decision deadline is October 2, 2003 (the 120th day after June 5, 2003). *See* 35 Ill. Adm. Code 107.504. The Board meeting immediately before the decision deadline is scheduled for September 18, 2003.

McHenry County must file the entire record of its proceedings within 21 days after the date of this order. The record must comply with the content and certification requirements of 35 Ill. Adm. Code 107.304, 107.308. The petitioners must pay to McHenry County the cost of preparing and certifying the record. 415 ILCS 5/39.2(n) (2002); 35 Ill. Adm. Code 107.306; *see also* 35 Ill. Adm. Code 107.502(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board