

ILLINOIS POLLUTION CONTROL BOARD  
June 15, 2006

PEORIA DISPOSAL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-184
	)	(Pollution Control Facility Siting
PEORIA COUNTY BOARD,	)	Appeal)
	)	
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

On June 7, 2006, the Board received a petition requesting the Board to review the Peoria County Board's (County) failure to take action by May 3, 2006, on a siting application filed by the petitioner, Peoria Disposal Company (Peoria Disposal), on November 9, 2005. Peoria Disposal sought a vertical and horizontal expansion of its existing hazardous waste landfill located in Peoria County. According to the petition, the County failed to pass a motion to approve Peoria Disposal's application. Peoria Disposal states the County made no written findings and issued no written decision. For the reasons set forth below, the Board accepts the petition for hearing.

Section 40.1(a) of the Environmental Protection Act (Act) (415 ILCS 5/40.1(a) (2004)) authorizes Peoria Disposal's appeal to the Board. Peoria disposal asks the Board to deem the application for site location approval approved by virtue of the County's failure to take timely action as required by Section 39.2(e) of the Act. 415 ILCS 5/39.2(e) (2004). Peoria Disposal argues, alternatively, that if not deemed granted by operation of law, the Board should remand the application to the County. Peoria Disposal claims the May 3, 2006 action by the County lacked fundamentally fairness for various reasons including: (1) the hearing and post-hearing procedures were not fundamentally fair; (2) multiple members of the County were biased against the applicant or had disqualifying conflicts of interest; and (3) the action of the County was based on matters outside the record.

Peoria Disposal next argues, alternatively, that if on May 3, 2006, the County denied the application based on the merits, the decision was against the manifest weight of the evidence. There are nine criteria a local siting authority must consider when deciding whether to grant siting to a pollution control facility. 415 ILCS 5/39.2(a) (2004). Peoria Disposal states that the purported findings that Peoria Disposal did not prove criteria i (necessary to accommodate area waste needs); ii (designed, located and operated to protect public health, safety, and welfare); and iii, (minimize incompatibility and property value effects) are against the manifest weight of the evidence. As to criterion v, Peoria Disposal appeals any purported finding that criterion v (the facility is designed to minimize danger from fire, spills, or operational injury) had been proven only if certain special conditions were imposed as also against the manifest weight of the evidence. Peoria Disposal requests the Board to reverse any finding on these criteria. Peoria

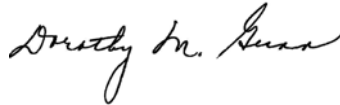
Disposal's petition meets the content requirements of 35 Ill. Adm. Code 107.208. The Board accepts the petition for hearing.

Peoria Disposal has the burden of proof. 415 ILCS 5/40.1(a) (2004); *see also* 35 Ill. Adm. Code 105.506. Hearings will be based exclusively on the record before the County. 415 ILCS 5/40.1(a) (2004). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.1(a) (2004)), which only Peoria Disposal 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 Peoria Disposal "may deem the site location approved." 415 ILCS 5/40.1(a) (2004). Currently, the decision deadline is October 5, 2006 (the 120th day after June 7, 2006). *See* 35 Ill. Adm. Code 107.504. A Board meeting is currently scheduled for that date.

The 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. Peoria Disposal must pay to the County the cost of preparing and certifying the record. 415 ILCS 5/39.2(n) (2004); 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 15, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board