

ILLINOIS POLLUTION CONTROL BOARD  
July 10, 2008

JOHN BLICKHAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 08-59
	)	(Permit Appeal – Land)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On March 28, 2008, at the parties' request, the Board extended until June 29, 2008, the time period for John Blickhan (Blickhan) to appeal a February 22, 2008 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.208. The Agency's determination concerns a solid waste management site known as the "Blickhan Landfill," located in Quincy, Adams County. On June 27, 2008, Blickhan timely filed a petition asking the Board to review the Agency's determination. *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 101.300(b), 105.208(a). For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5 40(a)(1) (2006); 35 Ill. Adm. Code 105, Subpart B. In this case, the Agency denied Blickhan's application for completion of the post-closure care period for Blickhan's closed landfill. Blickhan appeals on the grounds that the Agency "misstated the legal standard for demonstrating completion of post-closure care requirements." Petition at 4. Blickhan alleges that the Agency should have approved his application because he (1) monitored gas, water, and settling for fifteen years after the Agency-certified closure of the Blickhan Landfill, in compliance with Section 22.17 of the Act (415 ILCS 5/22.17 (2006)); (2) completed all work required under the Agency-approved post-closure plan, in accordance with 35 Ill. Adm. Code 807.524(c)(1); and (3) demonstrated that the Blickhan Landfill will not cause future violations of the Act or the Part 807 requirements, in compliance with 35 Ill. Adm. Code 807.524(c)(2). *Id.* at 12-13. Blickhan's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. Blickhan has the burden of proof. 415 ILCS 5/40(a)(1) (2006); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords an applicant the opportunity to challenge the Agency's reasons for denial, information developed after the Agency's decision


typically is not admitted at hearing or considered by the Board. *See Alton Packaging Corp. v. PCB*, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); *Community Landfill Co. & City of Morris v. IEPA*, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom. Community Landfill Co. & City of Morris v. PCB & IEPA*, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2006)), which only Blickhan may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Blickhan may deem his application approved. *See* 415 ILCS 5/40(a)(2)(2006). Currently, the decision deadline is October 27, 2008, which is the first business day following the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 101.300(a), 105.114. The Board meeting immediately before the decision deadline is scheduled for October 16, 2008.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 28, 2008, which is the first business day following the 30th day after the Board received Blickhan's petition. *See* 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 10, 2008, by a vote of 4-0.



---

John Therriault, Assistant Clerk  
Illinois Pollution Control Board