

ILLINOIS POLLUTION CONTROL BOARD
August 20, 2015

CLINTON LANDFILL, INC.,)
)
 Petitioner,)
)
 v.) PCB 15-60, PCB 15-76, PCB 15-111,
) PCB 15-113, PCB 15-166, PCB 15-194,
 ILLINOIS ENVIRONMENTAL) PCB 15-195, PCB 15-207, PCB 16-34
 PROTECTION AGENCY,) (Permit Appeal - Land)
) (Consolidated)
 Respondent.)

ORDER OF THE BOARD (by C. K. Zalewski):

On July 23, 2015, Clinton Landfill Inc. (CLI) timely filed a petition (Pet.) asking the Board to review a July 13, 2015 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2014); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns CLI's landfill No. 3 (the landfill) located in Clinton, DeWitt County. By Board order dated August 6, 2015, the Board accepted the petition for hearing. Clinton Landfill, Inc. v. IEPA, PCB 16-34 (Aug. 6, 2015). On August 10, 2015, CLI and the Agency filed a joint motion to consolidate PCB 16-34 with PCB 15-60, PCB 15-76, PCB 15-111, PCB 15-113, PCB 15-166, 15-194, PCB 15-195, and PCB 15-207 along with a joint motion to designate the record of PCB 16-34 (Mot.). For the reasons below, the Board grants the joint motion to consolidate and designates the record in the already consolidated cases as the record in PCB 16-34.

JOINT MOTION TO CONSOLIDATE

On August 28, 2014, CLI timely filed a petition for review of a permit determination made by the Agency on July 31, 2014. The Board accepted that petition for review in an order dated September 4, 2014. Since that time, CLI has filed a number of subsequent petitions for review, all regarding the same landfill, landfill development permit, and modification of that permit. *See* Clinton Landfill, Inc. v. IEPA, PCB 15-60, PCB 15-76, PCB 15-111, PCB 15-113, PCB 15-166, PCB 15-194, PCB 15-195, PCB 15-207 (consol.) (July 9, 2015). Most recently, on July 9, 2015, the Board accepted PCB 15-207 for hearing, consolidated that case with the already consolidated cases and designated the record in the consolidated cases as the record in PCB 15-207. *Id.* In the August 10, 2015 joint motion to consolidate in PCB 16-34, the parties state that "precisely the same issues are being reviewed in these cases." Mot. at 3.

The Board's procedural rules allow for consolidating proceedings. Section 101.406 of those rules provides:

The Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for the purpose of hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of

convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary. 35 Ill. Adm. Code 101.406.

The parties are the same in Clinton Landfill, PCB 15-60, PCB 15-76, PCB 15-111, PCB 15-113, PCB 15-166, PCB 15-194 , PCB 15-195, PCB 15-207 (consol.), and PCB 16-34. The case is a permit appeal challenging permit determinations made by the Agency and is related to CLI's permit for its Clinton, DeWitt County site. Further, the case concerns the same provisions of CLI's permit, modified in Permit Modification No. 47 of Permit No. 2005-070-LF, but reiterated in Permit Modification Nos. 48, 49, 50, 51, 52, 53, 54, and 55. CLI's burden of proof is the same in this case as it is in the already consolidated cases. Further, PCB 16-34 shares a decision deadline of February 29, 2016 with the already consolidated permit appeals.

For the reasons stated above, the Board finds that consolidating the permit appeals for purposes of hearing is in the interest of convenient, expeditious, and complete determinations of the claims. The Board also finds that such consolidation would not cause material prejudice to either party, and therefore the Board grants the parties' joint motion to consolidate PCB 16-34 with the already consolidated Clinton Landfill, PCB 15-60, PCB 15-76, PCB 15-111, PCB 15-113, PCB 15-166, 15-194, PCB 15-195, 15-207 (consol.) for hearing and decision. Future filings must reflect the amended caption of this order.

JOINT MOTION TO DESIGNATE THE RECORD

With the August 10, 2015 motion to consolidate in PCB 16-34, the parties also included a motion to designate the record stating, "CLI and the Agency have agreed that the Administrative Record filed in PCB 15-60, as supplemented to date and in the future, should stand as the Administrative Record relative to the instant case." Mot. at 3. The parties agreed that the record should be supplemented to include Permit Modification No. 55. *Id.* The Board grants the parties' motion to designate the record.

CONCLUSION

For the reasons set forth above, the parties' joint motion to consolidate is granted and future filings must reflect the amended caption of this order. The Board grants the parties' joint motion to designate the record filed in Clinton Landfill, Inc. v. IEPA, PCB 15-60, as the administrative record for the consolidated docket.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 20, 2015 by a vote of 5 to 0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board