

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1987

JOHN STARK,)
)
 Petitioner,)
)
 v.) PCB 87-195
)
 COOK COUNTY BOARD OF)
 COMMISSIONERS and)
 NORTHWEST MUNICIPAL)
 CONFERENCE,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Theodore Meyer):

On December 14, 1987, petitioner John Stark filed a "petition for review" of the approval of site location of a new regional pollution control facility to be located in unincorporated Cook County near the Village of Bartlett. This facility is commonly known as the "Bartlett balefill". On November 16, 1987, after public hearings had been held, respondent Cook County Board of Commissioners approved the site location of the proposed balefill, and granted a special use permit to respondent Northwest Municipal Conference for the construction and operation of the balefill.

The instant petition for review states that it is filed pursuant to Section 40.1(b) of the Environmental Protection Act (Act), Ill. Rev. Stat. 1985, ch. 111¹/₂ par. 1040.1(b), and alleges that the site approval was in violation of one or more of the seven criteria set forth in Section 39.2(a) of the Act. Ill. Rev. Stat. 1985, ch. 111¹/₂, par. 1039.2(a). Section 39.2 contains the exclusive procedures by which a county board or governing body of a municipality may review the site location suitability of a proposed new regional pollution control facility. Section 40.1(b) provides for third party appeal to the Board of a grant of approval under Section 39.2. Petitioner contends that approval of the site by respondent Cook County Board of Commissioners violated two specific criteria of Section 39.2(a): whether the plan of operations is designed to minimize dangers from fire, spills, or other operational accidents, and whether the facility is designed, located, and proposed to be operated so that the public health, safety, and welfare are protected. Petitioner also alleges that respondent Northwest Municipal Conference failed to comply with the notice requirements of Section 39.2(b).

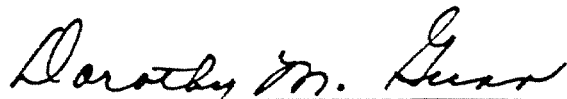
Petitioner apparently fails to realize that Section 39.2 does not apply to Cook County. Section 39.2(h) provides:

Nothing in this Section shall apply to any existing or new regional pollution control facility located within an unincorporated area of any county having a population of over 3,000,000 or within the corporate limits of cities or municipalities with a population of over 1,000,000. Ill. Rev. Stat. 1985, ch. 111 $\frac{1}{2}$, par. 1039.2(h).

Cook County has a population of over 3,000,000, and thus is not bound by Section 39.2. Section 40.1(b), under which petitioner seeks review, requires that this Board hear a petition for review unless the Board determines that such petition is frivolous or duplicitous. The Board has interpreted filings to be frivolous if beyond the scope of the Board's authority. Section 39.2 clearly does not apply to Cook County, and thus the Board has no authority under Section 40.1(b) to review the site location approval by respondent Cook County Board of Commissioners. Because this petition is so clearly outside the Board's jurisdiction, and to conserve the scarce resources of the Board and the parties, no hearing will be held. Therefore, the instant petition is dismissed as beyond the scope of the Board's authority.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 17th day of December, 1987, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board