

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1995

C.O.A.L. CITIZENS OPPOSED TO ADDITIONAL LANDFILLS),	)	
	)	
Petitioners,	)	
	)	
v.	)	PCB 92-131
	)	(Third-Party Appeal)
	)	(Landfill Siting Review)
LIDLAW WASTE SYSTEMS INC.,	)	
PERRY COUNTY BOARD OF COMMISSIONERS,	)	
	)	
Respondent.	)	

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

On November 13, 1995, the Board received a mandate from the Illinois Appellate Court Fifth District (C.O.A.L. (Citizens Opposed to Additional Landfills) v. IPCB, Laidlaw Waste Systems, Inc., and Perry County Board of Commissioners, 5-93-0282, April 3, 1995), reversing and remanding the Board's January 21, 1993 order in this case. On November 27, 1995, the Citizens Opposed to Additional Landfills (C.O.A.L.) filed a motion for entry of judgement. On December 1, 1995, Laidlaw Waste Systems (Laidlaw) filed a motion to file response instanter which the Board hereby grants, a response to C.O.A.L.'s motion and a motion to voluntarily withdraw application for local siting approval. On December 11, 1995, C.O.A.L. filed a response. On December 18, 1995, the Board received from Laidlaw a Rebuttal Brief.

The Board's January 21, 1993 order affirmed the Perry County Board of Commissioners' (Perry County) decision granting site approval to Laidlaw for a pollution control facility. The Board found that Laidlaw had properly noticed the property owners on the authentic tax records of Perry County pursuant to Section 39.2(b). The Board made this finding while striking evidence offered by C.O.A.L. rebutting the assertion as to what were the authentic tax records. The Court stated, in pertinent part:

we are compelled to reverse and remand this decision of the Pollution Control Board with directions to allow petitioner [C.O.A.L.] to present the evidence stricken by the Pollution Control Board and to hear testimony concerning what, in fact, are the "authentic tax records" of Perry County. This may, in all likelihood, entail a remand to the County Board so that such evidence can be presented.

(C.O.A.L. (Citizens Opposed to Additional Landfills) v. IPCB, Laidlaw Waste Systems, Inc., and Perry County Board of Commissioners, 5-93-0282, April 3, 1995 at 12.)

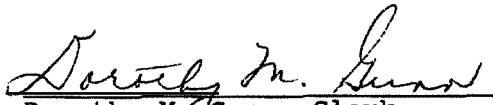
The Court also remanded for the Board's consideration the issue of whether Perry County lacked jurisdiction over Laidlaw's siting application due to the receipt of notice less than 14 days before the filing of Laidlaw's application. (C.O.A.L. (Citizens Opposed to Additional Landfills v. IPCB, Laidlaw Waste Systems, Inc., and Perry County Board of Commissioners, 5-93-0282, April 3, 1995 at 14.)

In its motion, C.O.A.L. argues that the Board should enter judgement finding Perry County lacks jurisdiction based on the failure of Laidlaw to serve notice less than 14 days prior to the filing of the application. C.O.A.L. cites to Ogle County v. PCB, 272 Ill. App. 3d 184, 649 N.E. 2d 545 (2d Dist. 1995), as authority for its position. Laidlaw, in response, argues that the jurisdictional issues are moot as it wishes to withdraw the siting application. In response to the motion to withdraw the siting application, C.O.A.L. argues that the Board may not be the appropriate authority to grant the relief sought by Laidlaw.

We find that the Board is not the appropriate authority to rule on the motion to withdraw the siting application filed by Laidlaw. Therefore, we remand this proceeding to Perry County to allow Laidlaw to withdraw the siting application from Perry County. If Laidlaw withdraws the siting application the remaining issues in this matter need not be addressed because they will be mooted by the withdrawal. The parties shall notify the Board, no later than March 15, 1996, of the status of the siting application.

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 30th day of December, 1995, by a vote of 7-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board