

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 1981

DONALD J. HAMMAN, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 80-153  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 )  
 Respondent. )

MR. JOSEPH H. BARNETT AND MS. TRIS MICHELS, PUCKETT, BARNETT, LARSON, MICKEY, WILSON & OCHSENSCHLAGER, APPEARED ON BEHALF OF THE PETITIONER.

MS. MARY DRAKE, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by D. Satchell):

This matter comes before the Board upon a petition for review filed August 22, 1980 by Donald J. Hamman. The petition requests review of the denial by the Illinois Environmental Protection Agency (Agency) of a development permit for a sanitary landfill to be located in Will County. A public hearing was held December 1, 1980 in Joliet. There is no indication of public participation in the hearing and the Board has received no public comment.

On March 25, 1980 Donald J. Hamman made application to the Agency to develop a sanitary landfill on a 145 acre site in the SW ¼ of Sec. 17, T. 37 N., R. 9 E., 3 PM, Will County.\* The site is situated on "111th Street," an east-west road situated between Route 30 and Illinois Route 59.

On July 21, 1980 the Agency denied the application for a developmental permit. The letter cites Rules 314 and 316(a)(4) of Chapter 7: Solid Waste. On November 25, 1980 the parties stipulated that Petitioner has met and satisfied all other procedural and substantive requirements necessary for issuance of the requested permit. The denial "was based solely upon Petitioner's failure to present any evidence of agreement by the Wheatland Township Road Commissioner for the upgrading of 111th Street in accordance with specifications set forth in the April 25, 1980 traffic analysis of 111th Street prepared by Planning Horizons, Inc."

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\*The petition indicates Township 47 North, which is in Wisconsin. The description given is inferred from maps.

One hundred and eleventh street is a rural road under the jurisdiction of Wheatland Township, Will County. Petitioner admits that one and one-fourth miles of this are inadequate for the proposed truck traffic (R. 7). One hundred and eleventh street consists of four segments from west to east as follows:

1. Route 30 to main entrance . . . . . 3700 feet
2. Entrance to Norman Town Road . . . . . 800 feet
3. Norman Town Road to Blacktop . . . . . 1000 feet
4. Blacktop to Route 59 . . . . . distance not given

Petitioner has done engineering studies for 3780 feet of the road from the west, from highway 30 to the entrance (R. 22). The estimated cost would be \$250,000 (R. 31). Petitioner has offered to improve this roadway at his expense but has received no response from the Township (R. 13, 18). Petitioner expects 75% of the traffic from this direction (R. 26). Roadway improvements to the east of the main entrance have not yet been designed although the costs per lineal foot would be less (R. 31).

Rule 314(b) provides as follows:

Except as otherwise authorized in writing by the Agency, no person shall cause or allow the development or operation of a sanitary landfill which does not provide: . . . roads adequate to allow orderly operations within the site.

Rule 314(b) relates only to roads and operations within the site. The roads in question are not within the site.

Rule 316(a)(4) requires that the permit application include "land use and population density of the proposed sanitary landfill site and of the area surrounding the site within one mile of the site boundaries." This Rule makes no direct reference to roads off the site.

The Board holds that neither Rule 314 nor Rule 316(a)(4), nor the combination of the two, is a sufficient reason to deny the permit under the circumstances in this case. This result is based upon an interpretation of existing Board rules.

The Board further notes that the issue in this case is restricted by the stipulation and denial letter to a question of whether Rules 314(b) or 316(a)(4) constitute a per se rule requiring denial of the permit where off-site roads are inadequate.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

This matter is remanded to the Agency for issuance of a development permit subject to lawful conditions.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 8<sup>th</sup> day of November, 1981 by a vote of 4-1.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board