

ILLINOIS POLLUTION CONTROL BOARD  
March 6, 1997

SENATOR WILLIAM SHAW, RONNIE	)	
LEWIS and JUDITH EVANS,	)	
	)	
Petitioners,	)	PCB 97-68
	)	(Pollution Control Facility
v.	)	Siting Appeal)
	)	
BOARD of TRUSTESS of the VILLAGE of	)	
DOLTON, MAYOR DONALD HART and	)	
LAND AND LAKES COMPANY,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by J. Yi):

This matter is before the Illinois Pollution Control Board (Board) on a motion filed on March 3, 1997, by Land and Lakes Company (Land and Lakes) requesting leave of the Board to temporarily remove certain oversized exhibits. This matter was originally before the Board on an appeal filed pursuant to paragraph (b) of Section 40.1 of the Environmental Protection Act (Act) (415 ILCS 5/40.1(b) (1994)) on October 8, 1996 by Senator William Shaw, Ronnie Lewis, and Judith Evans (petitioners). Petitioners appealed the September 3, 1996 decision of the Village of Dolton, Illinois (Village) to grant local siting approval to Land and Lakes Company (Land and Lakes) for an expansion of its pollution control facility located in the Village. The Board issued an opinion and order on January 23, 1997 affirming the Village's decision to grant siting approval. On February 28, 1997, petitioners filed a motion for reconsideration of that order which remains pending before the Board. As of the date of this order the Board has not received any responses.

In support of its motion concerning the exhibits, Land and Lakes states that it has pending before the Illinois Environmental Protection Agency (Agency) an "Initial Significant Modification Application" for the facility. Land and Lakes further states that the Agency scheduled a public hearing on its application for Thursday, March 13, 1997. Land and Lakes asserts that it needs several of the oversized exhibits, specifically exhibits identified in the Village record as C222, C223, C224, C225, C226, C227, C229, and C230, for use at the Agency hearing. Land and Lakes states that it requests to remove the exhibits temporarily, starting the week of March 10, 1997 and ending on March 17, 1997, recognizing that this matter is still pending before the Board.

Additionally, Land and Lakes states that "[p]ursuant to Section 101.241(b) of the Board's procedural rules (35 Ill. Admin. Code 101.241(b)), LALC requests that the Board rule on this motion at its March 6, 1997 meeting." Alternatively, Land and Lakes requests that this

motion be referred to the hearing officer for decision before the March 13, 1997 hearing. Land and Lakes claims that if it is precluded from the opportunity to use the exhibits at that hearing, material prejudice would result. Finally, Land and Lakes states that the Village has indicated that it has no objection to this motion and that an effort to reach petitioners' attorney was not immediately successful. Land and Lakes states that it will serve this motion on counsel for petitioners and the Village by facsimile.

Although the Board has not received responses to the motion, and pursuant to the Board's procedural rules responses are not due to be filed until March 10, 1997, the Board will decide Land and Lakes' motion. Recognizing the tight timeframe as discussed by Land and Lakes, the Board is deciding Land and Lakes' motion without the benefit of responses.

The Board grants Land and Lakes motion to temporarily remove certain oversized exhibits from the record in this matter. The Board has in the past denied similar requests. (See Goose Lake Association v. Robert J. Drake, Sr., and First Bank of Joliet as Trustee, Trust No. 370 (June 17, 1993), PCB 90-170, Citizens Opposed to Additional Landfills (C.O.A.L.) v. Laidlaw Waste System Inc., and Perry County Board of Commissioners (February 25, 1993) PCB 92-131, and Gallatin National Steel Company v. The Fulton County Board and the County of Fulton (July 30, 1992), PCB 91-256.) However, due to the unique factual situation in this matter we will allow Land and Lakes to temporarily remove the oversized exhibits. In this case, although the matter is still pending on a motion for reconsideration, Land and Lakes is requesting the use of the oversized exhibits it originally produced for hearing before the Village for use at a hearing before the Agency which requires the exhibits to leave the Board's offices. The exhibits are oversized exhibits making copying difficult, and Land and Lakes is requesting the oversized exhibits for a short period of time. For these reasons the Board will allow Land and Lakes to temporarily remove the oversized exhibits subject to the following conditions:

- 1) Land and Lakes shall retain custody of the exhibits C222, C223, C224, C225, C226, C227, C229, and C230 for the entire period that the exhibits are removed;
- 2) Land and Lakes shall not allow exhibits C222, C223, C224, C225, C226, C227, C229, and C230 to be altered in any way;
- 3) Land and Lakes is required to reproduce the oversized exhibits if damaged, lost or altered;
- 4) Land and Lakes may take possession of exhibits C222, C223, C224, C225, C226, C227, C229, and C230 on March 10, 1997 and return the exhibits on March 17, 1997; and
- 5) Land and Lakes will complete the appropriate Clerk's Office forms upon taking possession of the exhibits.

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 \_\_\_\_\_ day of \_\_\_\_\_, 1997, by a vote of \_\_\_\_\_.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board