

ILLINOIS POLLUTION CONTROL BOARD
January 23, 1992

D & B REFUSE SERVICE, INC.)
)
 Petitioner,)
)
 v.) PCB 92-12
) (Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On January 21, 1992, the D & B Refuse Service, Inc. (D & B), filed a petition for variance from 35 Ill. Adm. Code 814.501(b) and 814.104(a). D & B seeks to (a) continue to operate its landfill for 16 months beyond the two year closure provisions in Part 814 of the Board's new landfill regulations and (b) be allowed to remain subject to its existing permit, issued prior to the new landfill regulations. Part 814 addresses what are often referred to as the transition provisions between Board's old and new landfill regulations. In pertinent part, Part 814 essentially provides that an existing landfill must close by September 18, 1992 (i.e. two years after the effective date of the Board's new landfill regulations adopted in R88-7) unless it can comply with stricter operating, closure and post-closure standards for existing landfills that, as in this case, are staying open beyond two years but less than seven years.¹ This is expressly provided in Section 814.401. These stricter standards in large measure reference Part 811, the standards applicable to new landfills. See Section 814.402. Only if a landfill closes within the two years may it continue operating under its present permit and close under the closure and post-closure care provisions of Part 807 of the Board's old landfill regulations. See Sections 814.104(a) and 814.502.

D & B's petition is deficient, particularly insofar as it fails to comply with the variance petition requirements of 35 Ill. Adm. Code 104.121(f) and (g). As opposed to, say, a petition for an adjusted standard, a variance petition requires a detailed plan, including a timetable, for achieving compliance, albeit delayed, with the Board regulations. See 35 Ill. Adm. Code 104.121(f). Since, as noted, D & B is requesting to

¹Those staying open beyond seven years are subject to the strictest standards in Part 814. See Sections 814.301 and 814.302.

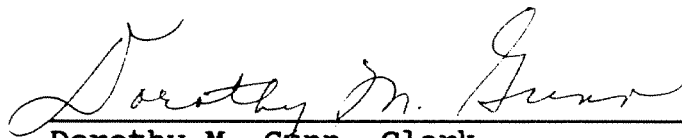
initiate closure between two and seven years, i.e. almost 3 1/2 years, the "between two and seven years" provisions of Part 814 contain the applicable Board regulations. D & B has not identified which "between two and seven year" standards specified in Section 814.402 from which it seeks delayed compliance nor has it presented a plan of compliance, including a timetable. We note that, in seeking relief from Section 814.501(b), D & B appears to be seeking relief from having to demonstrate compliance at any time with any of these stricter operating, closure and post-closure standards. D & B appears to be seeking, instead, to simply substitute the regulations contained in Part 807. We also emphasize that D & B also has not addressed the environmental impact information required in 35 Ill. Adm. Code 104.121(g).

D & B is directed to file an amended petition curing the above deficiencies no later than 45 days from the date of this Order or this matter will be subject to dismissal.

Finally the Board directs D & B's attention to five other variance cases recently filed and involving similar issues. These are City of Jacksonville, PCB 92-8, Order of January 9, 1992 (virtually identical to the instant order), and Land and Lakes, PCB 91-215, 91-216, 91-217 and 91-218, Orders of January 23, 1992 (each case dismissed). The Clerk's Office is directed to serve D & B with copies of those Orders, along with this one, via first-class mail.

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 23rd day of January, 1992, by a vote of 5-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board