

ILLINOIS POLLUTION CONTROL BOARD

November 21, 1996

RESIDENTS AGAINST A POLLUTED)	
ENVIRONMENT AND THE EDMUND B.)	
THORNTON FOUNDATION,)	
)	
Petitioners,)	
)	
v.)	PCB 96-243
)	(Pollution Control Facility Siting Appeal)
COUNTY OF LASALLE AND LANDCOMP))	
CORPORATION,)	
)	
Respondents.)	

ORDER OF THE BOARD (by M. McFawn):

This matter is before the Board on a November 18, 1996 "Motion for Extension of Dates on Remand," filed by petitioners Residents Against a Polluted Environment and the Edmund B. Thornton Foundation (Residents). In their motion, Residents request that the Board extend the 120-day time period established in the Board's September 19, 1996 order for the County of LaSalle (LaSalle) to render a new decision on the siting application filed by LandComp Corporation, Inc. (LandComp). On November 19, 1996, respondent LandComp filed an "Objection to Motion for Extension of Hearing Date on Remand," objecting to the requested extension. Finally, on November 20, 1996, respondent LaSalle also filed an "Objection to Motion for Extension of Dates on Remand."

The motion and responses at issue concern the timeframes established by the Board in its September 19, 1996 order, which remanded this matter to LaSalle for additional proceedings. In the September 19, 1996 order, the Board directed LaSalle to perform several actions to cure the fundamental fairness defects in the siting proceedings on the application filed by LandComp. First, the Board directed LaSalle to deposit a copy of LandComp's entire siting application, including volume VII, at the office of the county board, and to make the same available for public inspection. Second, the Board directed LaSalle to deposit a copy of the report prepared by Camp, Dresser and McKee (CDM Report), dated February 1996, at the office of the county board, and to make the same available for public inspection. Third, the Board directed LaSalle to conduct one or more public hearings, and to allow a public comment period of at least 30 days, on the siting application, including volume VII, and the CDM report. At hearing, the county was directed to allow testimony and questioning concerning volume VII of the application, and the CDM report. The Board directed the county to vote and render its decision concerning the siting application no later than 120 days after the date of the September 19, 1996 order, or by January 17, 1997.

In support of their request for extension, Residents assert that the LandComp's appeal of the Board's September 19, 1996 order, which was subsequently voluntarily dismissed, and

LandComp's subsequent request for Rule 308(a) certification, which the Board denied on November 7, 1996, consumed 49 days of the 120-day period. Residents further assert that LaSalle has scheduled the required hearing on December 4, 1996, allowing Residents only three weeks to prepare for hearing. Additionally, Residents assert that volume VII of the application has not yet been made available for public inspection, as directed by the Board in its September 19, 1996 order. Finally, Residents assert that a newly elected county board takes office on December 2, 1996, two days before the scheduled hearing, and that this will not allow the Board adequate time to prepare for the hearings. Residents conclude that extending the 120-day time period by 49 days will enhance the public participation process.

In its November 19, 1996 response to the request for extension of time, LandComp responds to each of the arguments set forth by Residents, and asserts that they do not warrant the requested extension. First, LandComp asserts that petitioners will have had at least 27 days to prepare for hearing, and that since the remand is limited to the CDM report and volume VII of the application, this is sufficient time to prepare. Second, LandComp asserts that the county notified petitioners that the application, including volume VII and the CDM report, has been available for public inspection since November 14, 1996, one day after Residents mailed their motion for extension of time. LandComp therefore asserts that Residents should have now had the opportunity to inspect the documents. Third, LandComp asserts that Residents' arguments concerning the county board do not warrant the requested extension. LandComp asserts that only a portion of the county board is newly elected, and that it is the county that has issued the notice of hearings. LandComp asserts that, if the county were unprepared to proceed with the additional hearings, it would itself have moved for additional time. Finally, LandComp asserts that there is no evidence offered to support the assertion that granting the requested extension will enhance the public participation process. LandComp asserts that the public notice published on November 16, 1996, as well as a front page story in the November 16, 1996 issue of the Daily Times, indicate that the hearings are known to the public.

In its November 20, 1996 response, LaSalle states that it has already scheduled and published public notice of the required hearings, and is prepared to proceed with those hearings. LaSalle further states that the scope of the required hearings is limited to volume VII of the application and the CDM report, and that these documents, along with the entire application, were placed on file with the county clerk and made available for public inspection on November 12, 1996. LaSalle also disputes Residents' assertion that an extension would enhance the public participation process, and asserts that ample time exists for all parties to prepare for the scheduled hearings. Finally, LaSalle states that the only operating landfill in LaSalle County is scheduled to close in September, 1997, and that granting the requested extension would only delay the ultimate resolution of this matter.

The Board finds that granting the requested extension is not warranted. The September 19, 1996 order sets forth the notice and public participation requirements which must be satisfied on remand, and there is no allegation that those requirements will not be fulfilled. Furthermore, the 120-day deadline established in the Board's September 19, 1996 order applies to the county, and the county has made it clear that it neither requires nor desires an extension of the deadline. We therefore deny the Residents' request for extension of time.

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 _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board