

ILLINOIS POLLUTION CONTROL BOARD
February 25, 1988

WASTE MANAGEMENT OF ILLINOIS)
INC., a Delaware Corporation,)
)
Petitioner,)
)
v.) PCB 87-75
)
LAKE COUNTY BOARD,)
)
Respondent.)

ORDER OF THE BOARD (by R. C. Flenal):

This matter comes before the Board upon a Motion to Reconsider filed by Waste Management of Illinois, Inc. ("WMII") on January 21, 1988. WMII moves the Board to reconsider and vacate its Opinion and Order entered December 17, 1987 which, inter alia, held that the landfill-siting proceeding conducted by the Lake County Board ("LCB") was fundamentally fair and that the decision reached by the LCB was not contrary to the manifest weight of the evidence. On February 5, 1988 the LCB filed a Response to Motion to Reconsider stating that the substance of the arguments raised by WMII in its motion remains unchanged from that previously stated in its briefs.

On February 16, 1988 WMII filed Petitioner's Reply to Response to Motion to Reconsider. On February 17, 1988 the LCB filed a Motion to Strike Petitioner's Reply in which it states that the Board's procedural rules do not provide the moving party with an opportunity to reply to a response to a motion (Motion to Strike at 1, citing A.R.F. Landfill Corporation v. Village of Round Lake Park and Lake County, PCB 87-34, Board Order of January 21, 1988.). On February 22, 1988 WMII filed a Response to Motion to Strike Petitioner's Reply alleging that the Board's order in A.R.F. Landfill Corporation, cited above is not on point. The Board believes that the above cited order is clearly applicable here, and therefore grants the LCB's Motion to Strike Petitioner's Reply.

In its Motion to Reconsider WMII contends that: (a) the Lake County Ordinance which governs landfill-siting is fundamentally unfair on its face; (b) LCB member F.T. "Mike" Graham should have been disqualified from participation and vote on WMII's application; (c) the LCB decision on the Need Criterion overlooked critical evidence and disregarded the standard for determining need; and (d) the Environmental Protection Act requires that this Board decide all contested criterion decisions, not just that which is dispositive.

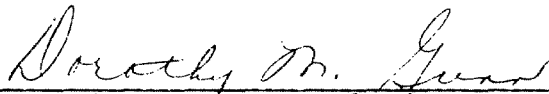
The Board finds that WMII raises nothing new that would

persuade it to reconsider or vacate its prior holdings as reflected in the December 17, 1937 Opinion and Order. On the issue of whether the Board acted improperly in going only to that portion of the contested decision which it found dispositive, the Board believes it has sufficiently adhered to the statutory requirements of Section 40.1 of the Act. Accordingly, WMII's Motion to Reconsider is denied.

IT IS SO ORDERED.

Board Members Joan Anderson and T. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25th day of February, 1988, by a vote of 5-2.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board