

ILLINOIS POLLUTION CONTROL BOARD
March 6, 2003

CITY OF KANKAKEE,)
)
Petitioner,)
)
v.) PCB 03-125
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.)
)
Respondents.)

MERLIN KARLOCK,)
)
Petitioner,)
)
v.) PCB 03-133
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.)
)
Respondents.)

MICHAEL WATSON,)
)
Petitioner,)
)
v.) PCB 03-134
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.)
)
Respondents.)

KEITH RUNYON,)	
)	
Petitioner,)	
)	PCB 03-135
v.)	(Third-Party Pollution Control Facility
)	Siting Appeal)
COUNTY OF KANKAKEE, COUNTY)	
BOARD OF KANKAKEE, and WASTE)	
MANAGEMENT OF ILLINOIS, INC.)	
)	
Respondents.)	

ORDER OF THE BOARD (by T.E. Johnson):

On February 25, 2003, City of Kankakee (Kankakee) filed a petition asking the Board to review a January 31, 2003, decision of the County of Kankakee (County). On March 3, Merlin Karlock, Michael Watson, and Keith Runyon all filed separate petitions asking the Board to review a January 31, 2003 decision of the County. The County granted Waste Management of Illinois, Inc.'s (Waste Management) application to site a pollution control facility in Kankakee County.

Kankakee appeals on the grounds that the County's decision was against the manifest weight of the evidence on four of the criteria in Section 39.2 of the Environmental Protection Act (415 ILCS 5/39.2 (2002) and the County's proceedings were fundamentally unfair. Merlin Karlock appeals on the grounds that the County lacked jurisdiction, the County's decision was against the manifest weight of the evidence on four of the criteria in Section 39.2 of the Environmental Protection Act (415 ILCS 5/39.2 (2002), and the County's proceedings were fundamentally unfair. Michael Watson appeals on the grounds that the County lacked jurisdiction, the County's decision was against the manifest weight of the evidence on seven of the criteria in Section 39.2 of the Environmental Protection Act (415 ILCS 5/39.2 (2002), and the County's proceedings were fundamentally unfair. Keith Runyon appeals on the grounds that the County's decision was against the manifest weight of the evidence on one of the criteria in Section 39.2 of the Environmental Protection Act (415 ILCS 5/39.2 (2002). For the reasons set forth below, the Board accepts the petitions for hearing and consolidates the proceedings on the Board's own motion.

THIRD-PARTY APPEAL

Section 40.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/40.1(b) (2002)) allows certain third parties to appeal a local government decision granting approval to site a pollution control facility. Third parties who participated in the local government's public hearing and who are so located as to be affected by the proposed facility may appeal the siting decision to the Board. 415 ILCS 5/40.1(b) (2002); 35 Ill. Adm. Code 107.200(b). The petition for review must, among other things, specify the grounds for appeal and include a copy of the

local government's siting decision. 35 Ill. Adm. Code 107.208. The third party must file the petition within 35 days after the local government approves siting. 415 ILCS 5/40.1(b) (2002); 35 Ill. Adm. Code 107.204. Unless the Board determines that the third party's petition is "duplicitous or frivolous," the Board will hear the petition. 415 ILCS 5/40.1(b) (2002); 35 Ill. Adm. Code 107.200(b).

Petitioners' petitions state that petitioners participated in the County's public hearings and that petitioners are so located as to be affected by the proposed facility. Petitioners specify the grounds for the appeal and include a copy of County's siting decision. The petitions meet the content requirements of 35 Ill. Adm. Code 107.208. Petitioners also filed the petitions within 35 days after the County approved siting.

HEARING AND DECISION DEADLINE

An action before the Board is duplicitous if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. An action before the Board is frivolous if it is "a request for relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* No evidence before the Board indicates that this action is duplicitous or frivolous. The Board accepts petitioners' petitions for hearing.

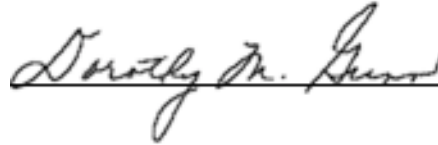
Petitioners have the burden of proof. 415 ILCS 5/40.1(b) (2002); *see also* 35 Ill. Adm. Code 107.506. Hearings will be based exclusively on the record before the County. 415 ILCS 5/40.1(b) (2002). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.1(a), (b) (2002)), which only Waste Management may extend by waiver (35 Ill. Adm. Code 107.504; *see also* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Waste Management "may deem the site location approved." 415 ILCS 5/40.1(a) (2002). Currently, the decision deadline is June 25, 2003 (the 120th day after February 25, 2003, the filing date of Kankakee's petition). *See* 35 Ill. Adm. Code 107.504. The Board meeting immediately before the decision deadline is scheduled for June 19, 2003.

COUNTY'S RECORD

The County must file the entire record of its proceedings within 21 days after the date of this order. The record must comply with the content and certification requirements of 35 Ill. Adm. Code 107.304, 107.308. Petitioners must pay to the County the cost of preparing and certifying the record. 415 ILCS 5/39.2(n) (2002); 35 Ill. Adm. Code 107.306.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 6, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board