

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROXANA LANDFILL, INC. )  
)  
Petitioner, )

v. )

VILLAGE BOARD OF THE VILLAGE )  
OF CASEYVILLE, ILLINOIS; VILLAGE )  
OF CASEYVILLE, ILLINOIS; and )  
CASEYVILLE TRANSFER STATION, )  
LLC, )  
)  
Respondents. )

PCB 15-65  
(Third Party Pollution Control  
Facility Siting Appeal)

VILLAGE OF FAIRMONT CITY, )  
ILLINOIS, )  
)  
Petitioner, )

v. )

VILLAGE OF CASYEVILLE, ILLINOIS )  
BOARD OF TRUSTEES and )  
CASEYVILLE TRANSFER STATION, )  
LLC, )  
)  
Respondents. )

PCB-15-69  
(Third Party Pollution Control  
Facility Siting Appeal)  
(Consolidated)

**RESPONDENT CASEYVILLE TRANSFER STATION, LLC and RESPONDENT VILLAGE OF CASEYVILLE, ILLINOIS' JOINT MOTION TO STRIKE AND DISMISS PETITIONER ROXANA LANDFILL, INC.'S PETITION FOR REVIEW**

Now comes Respondent, Caseyville Transfer Station, LLC ("CTS"), by and through its attorney, Penni Livingston of the Livingston Law Firm, and Respondent Village of Caseyville, Illinois, by and through its attorney, J. Brian Manion of Weilmuenster Law Group, P.C., pursuant Section 101.506 of the Pollution Control Board Procedural Rules, and hereby move to STRIKE and DISMISS the Petition for Review of Decision Concerning Siting of New Pollution

Control Facility (the "Petition") filed by Roxana Landfill, Inc. ("RLF") located in Edwardsville, Illinois. In support of its Motion, the Respondents state as follows:

**1. Background**

On February 10, 2014, CTS filed with the Village of Caseyville, Illinois an Application for Local Siting Approval (the "Application") for a municipal solid waste transfer station to be located on Bunkum Road within the municipal boundaries of Caseyville. A public hearing regarding the Application was held on May 29, 2014. On August 6, 2014, the Board of Trustees of the Village of Caseyville approved the Application. RLF filed the Petition on September 8, 2014.

**2. Argument**

RLF has not and cannot establish that it is a person that can file a petition for review under Section 40.1 of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/40.1 or under 35 IAC 107.200,. Section 107.200 of the Pollution Control Board's procedural rules states in pertinent part:

The following persons may file a petition for review of a decision concerning siting of a new pollution control facility pursuant to Section 40.1 of the Act:

\* \* \*

(b) Other persons. Any person who has participated in the public hearing conducted by the unit of local government and is *so located as to be affected by the proposed facility* may file a petition for review of the decision to grant siting.

RLF's allegations that it is a proper party to bring a petition for review are contained in paragraph 5 of the Petition, which states:

Roxana is a company that does business in, including and not limited to Caseyville. In addition, Roxana does business in St. Clair and Madison Counties; it is involved in the waste industry; and is the owner and operator of a landfill located in Madison County. Roxana has participated in the siting process (and is filing this Petition), among other reasons, to

encourage equal application of the state siting criteria to any person who seeks site location approval, object to unequal application of the state siting criteria by local government, and object to the Facility's siting application on the basis that it fails to meet the state siting criteria.

RLF has presented no facts that show it is affected by anything that may occur at the approved transfer station facility. Certainly, RLF has an interest in reversing the local siting approval, namely, prohibiting a potential competitor from entering the waste disposal marketplace and keeping the collected waste from being able to go to another landfill chosen by the transfer station. However, Section 40.1 of the Illinois Environmental Protection Act and Section 107.200 of the Board's procedural rules do not speak of an "interest" in the local siting approval, but rather the law requires that a potential petitioner must be so geographically "located" as to be affected by the proposed facility. RLF is not and cannot be a person so located as to be affected by the proposed Caseyville Transfer Station because, on information and belief:

1. The Roxana Landfill owned and operated by RLF is located at 4601 Cahokia Creek Road, Edwardsville, Illinois, which is over **20 miles** from the proposed facility that received local siting approval;

2. The entity "Roxana Landfill, Inc." does not own or lease any real property in Caseyville or in the vicinity of the proposed facility;

3. Even if "doing business" is sufficient to provide standing to bring a petition for review (which it is not), the entity "Roxana Landfill, Inc." does not do business in Caseyville but rather only does business at the 4601 Cahokia Creek Road, Edwardsville, Illinois landfill location, and further:

- a. RLF does not have contracts or agreements with any customers in Caseyville, Illinois or in the vicinity of the proposed facility;

- b. RLF does not own or operate any waste collection or other vehicles that service Caseyville or the vicinity of the proposed facility;
- c. ~~RLF does not own any roll-off boxes, dumpsters or other solid waste~~ collection containers servicing customers in Caseyville or in the vicinity of the proposed facility.

Moreover, at the May 29, 2014 public hearing on the Application, RLF presented no evidence or information supporting the notion that RLF is so located as to be affected by the proposed facility or would otherwise be particularly aggrieved or affected by the proposed transfer station facility.

RLF is attempting to use the appeal procedures of Section 40.1 of the Act as a barrier to entry into the solid waste disposal marketplace. Section 40.1 of the Act and Section 107.200 of the applicable regulations do not allow for this abuse of the process. A mere competitor is not a proper party to bring a petition for review.

WHEREFORE, the Respondents, Caseyville Transfer Station, LLC and Village of Caseyville, Illinois, pray that Petitioners' petition for review be dismissed with prejudice.

Respectfully submitted,

CASEYVILLE TRANSFER STATION, LLC  
and VILLAGE OF CASEYVILLE, ILLINOIS

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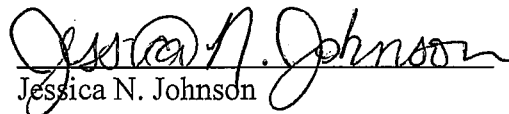
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**CERTIFICATE OF SERVICE**

I, Jessica N. Johnson, do certify that I caused to be electronically filed on this 7<sup>th</sup> day of October, 2014, the foregoing Joint Motion to Strike and Dismiss Roxana Landfill, Inc.'s Petition for Review to the parties of record by depositing the same electronically on the Illinois Pollution Control Board website as well as emailing the Motion to all parties.

  
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