



# ILLINOIS POLLUTION CONTROL BOARD

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APR 27 2004

STATE OF ILLINOIS  
Pollution Control Board

April 23, 2004

PCB04-187

**GOVERNOR**  
Rod R. Blagojevich

**CHAIRMAN**  
J. Philip Novak

Senator Dale A. Righter  
M013-E Capitol Building  
Springfield, IL 62706

Dear Senator Righter:

Yesterday I received your letter dated April 15, 2004, and addressed to Board Member Thomas Johnson regarding the Pollution Control Board's decision in Landfill 33 v. Effingham County Board and Sutter Sanitation Services, PCB 03-43 (Feb. 20, 2003) *consolidated with* Stock & Co. v. Effingham County Board and Sutter Sanitation Services, PCB 03-52.

In your letter, you asked whether the Board in that case would consider the presence of a mobile home that was apparently placed near the Sutter site after the county board had approved it for solid waste transfer. When considering an appeal from a county board's decision to grant siting approval, the Board's hearing and decision are "to be based exclusively on the record before the county board . . . ." 415 ILCS 5/40.1(b). If evidence was not part of the record of the Effingham County Board's siting proceedings, then the Pollution Control Board simply could not review it.

As a former legislator, I understand and appreciate your request for input on legislative policy. However, in the letter to Renee Cipriano, Director of the Environmental Protection Agency, that you attached, you indicate that Sutter Sanitation is now in the process of filing an appeal with the Pollution Control Board. Under those circumstances, it's not appropriate for me to offer comment pertaining to the facts of that potential appeal. If an appeal is filed, the Board will certainly give that case all due and impartial consideration.

I appreciate your interest in the Board's work and hope that you will contact me if I can provide you with any other information.

Sincerely,

J. Philip Novak,  
Chairman

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**WEB SITE**  
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GENERAL ASSEMBLY  
STATE OF ILLINOIS

**DALE A. RIGHTER**  
STATE SENATOR - 55TH DISTRICT

SPRINGFIELD OFFICE:  
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**RECEIVED**  
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STATE OF ILLINOIS  
Pollution Control Board

April 15, 2004

Thomas Johnson, Chairman  
Pollution Control Board  
600 S 2<sup>nd</sup> St, Suite 402  
Springfield, IL 62704

Dear Tom:

Enclosed please find a copy of a letter I have sent to the EPA concerning Sutter Sanitation's attempt to locate a solid waste transfer site south of Altamont in Effingham County. The letter outlines the information I have been given and the problem that exists.

First, I would appreciate information from the Board if in the course of considering this appeal, the fact that the "residential dwelling" was placed onto an empty lot after the local county board granted siting approval makes a difference in your decision to affirm or overturn the decision of the EPA. If you do not have that discretion, I would appreciate input from you on changing the law to deal with this situation.

Thank you for your time and consideration, and I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dale".

DALE A. RIGHTER  
State Senator  
55<sup>th</sup> District

Cc: Jim Lippson, Liaison

DAR/al

Enclosure

DETROIT OFFICE:

116 BROADWAY  
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GENERAL ASSEMBLY  
STATE OF ILLINOIS

**DALE A. RIGHTER**  
STATE SENATOR - 55TH DISTRICT

SPRINGFIELD OFFICE:

M102-E CAPITOL BUILDING  
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217/792-6674  
217/792-9586 (FAX)

April 15, 2004

Renee Cipriano, Director  
Environmental Protection Agency  
PO Box 19276  
Springfield, IL 62794

COPY

Dear Director Cipriano:

Recently I was contacted by a constituent in Shumway, Effingham County, by the name of Tracy Sutter. Mr. Sutter owns Sutter Sanitation in Shumway, and is at the center of a siting approval dispute that involves the EPA, the Pollution Control Board (PCB), and others.

As I understand it, Sutter Sanitation proposed a solid waste transfer site south of Altamont, which was granted local siting approval in September 2002 by the Effingham County Board. Opponents of this siting approval filed an appeal with the PCB, on which a hearing was held in December 2002. In February 2003 the PCB voted unanimously to affirm the decision by the Effingham County board to grant local siting approval.

Sutter Sanitation then filed an application with your agency in September 2003, which was denied in March 2004. According to Mr. Sutter, the EPA denied the application for three reasons.

First, the EPA advised that there was inadequate information in the application with regards to the thickness of the concrete that would be utilized at the facility. Mr. Sutter relayed to me that he has that information, and simply failed to put the details of it in the application. Second, there was, according to the Agency, inadequate information regarding how Sutter Sanitation would deal with the disposal of miscellaneous items such as old tires. Again, Mr. Sutter advised me that he has a "plan of action" for these eventualities should they occur. Finally, the EPA discovered there was a "residential dwelling," which is a mobile home, placed on an empty lot next to the site and within 1000 feet of the location. Based on these three issues, as noted above, the EPA denied Sutter Sanitation's permit.

It is my understanding that the mobile home was moved onto this vacant lot after the Effingham County Board granted local siting approval in September 2002. However, that eventuality is apparently not provided for in the law or regulations surrounding this issue.

Sutter Sanitation is now in the process of filing an appeal with the PCB, and looking for case or administrative law to support their position.

I would appreciate input from you concerning your view on this matter.

Thank you for your consideration, and I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dale".

DALE A. RIGHTER  
State Senator  
55<sup>th</sup> District

Cc: John Cross, Liaison

DAR/al