

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1989

WALTONVILLE COMMUNITY UNIT)	
SCHOOL DISTRICT NO. 1 AND)	
THE JEFFERSON COUNTY BOARD)	
OF REVIEW,)	
)	
Complainants,)	
)	
v.)	PCB 89-149
)	(Enforcement)
CONSOLIDATION COAL COMPANY)	
AND THE ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Anderson):

On September 19, 1989, the Board received two letters objecting to the one hundred percent removal from the real estate rolls of the Consolidation Coal Company's ("Consolidation Coal") coal preparation plant. The letters were written by the Waltonville Community Unit School District No. 1 ("Waltonville") and the Jefferson County Board of Review ("Jefferson County").

On September 28, 1989, the Board directed Waltonville and Jefferson County to specify if the September 19, 1989 letters were petitions to revoke certification of the coal preparation plant as a pollution control facility pursuant to Ill. Rev. Stat., ch. 120, Section 502(a) et seq. Section 502a-6 grants to the Board the power to revoke or modify, on its own initiative, the certification of a pollution control facility. This power can be exercised whenever fraud or misrepresentation was used to obtain the certification, whenever the certificate holder has not substantially proceeded with construction, reconstruction, installation, or acquisition of the facility, or whenever the certified facility has ceased to be used primarily for pollution control.

Waltonville's brief, filed on November 9, 1989, does not state whether or not the letters of September 19, 1989, are to be viewed as petitions to revoke certification. Even if the Board construes the letters as a petition to revoke or modify certification, Waltonville's brief does not allege any fraud or misrepresentation, any delay in proceeding with construction, installation or acquisition, or any change in primary use of the facility. The Board finds that it cannot exercise its power to revoke or modify if misconduct of the type specified in Section 502a-6 is not present.

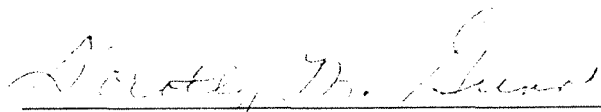
Therefore, the Board dismisses this proceeding for lack of jurisdiction pursuant to Ill. Rev. Stat., ch. 120, Section 502a-6.

The Board notes that it has delegated to the Illinois Environmental Protection Agency (Agency) the authority to make findings concerning certifications, and to issue, deny, or revoke a certification. Without in any manner commenting on the merits of this petition, the Board suggests that the Complainants may wish to inquire about this matter with the Director of the Agency.

Section 41 of the Environmental Protection Act, Ill. Rev. Sta. 1987 ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

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 6th day of December, 1989, by a vote of 6-0.



Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board