

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTRYSIDE DISPOSAL, LLC)	
)	
Petitioner,)	
v.)	PCB: _____
)	(Pollution Control Facility Siting Appeal)
FAYETTE COUNTY,)	
)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

To:	Don Brown, Clerk Pollution Control Board 60 East Van Buren Street, Suite 630 Chicago, IL 60605	Jessica Barker Fayette County Clerk 221 S. 7th Street, Room106 Vandalia, IL 62471
	Joshua C. Morrison Fayette County State's Attorney 221 S. 7th Street, Room 201 Vandalia, Illinois 62471	Jenny Waggoner County Board Chairperson 221 S. 7 th Street Vandalia, Illinois 62471

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302, a Petition to Review Pollution Control Facility Siting Action, a copy of which is herewith served upon you.

Undersigned certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon Respondent by enclosing same in envelopes addressed as above with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office Mailbox in Springfield, Illinois on the 14th day of November, 2022.

Respectfully submitted,
COUNTRYSIDE DISPOSAL, LLC,
Petitioner,

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTRYSIDE DISPOSAL, LLC)	
)	
Petitioner,)	
v.)	PCB: _____
)	(Pollution Control Facility Siting Appeal)
FAYETTE COUNTY,)	
)	
Respondent.)	

PETITION TO REVIEW POLLUTION CONTROL FACILITY SITING ACTION

NOW COMES Petitioner, COUNTRYSIDE DISPOSAL, LLC, pursuant to Section 40.1(a) of the Illinois Environmental Protection Act, 415 ILCS 5/40.1(a), and hereby appeals action by the County Board of Fayette County with respect to a request for siting approval, stating as follows:

1. On April 19, 2022, Countryside Disposal, LLC filed an application for siting approval of a proposed solid waste transfer station with the Clerk of Fayette County.
2. The location of the proposed facility is an unincorporated tract located at 1575 Highway 185, Brownstown, Illinois, Fayette County, Illinois.
3. There are no pollution control facilities in Fayette County, and Fayette County does not have any local ordinances governing siting review.
4. A public hearing on the application was held August 2 and 3, 2021 before the County Board, presided over by a hearing officer designated by the County.
5. During the public hearing, the Hearing Officer allowed third-parties represented by counsel to participate fully in the proceedings by presenting their own evidence, cross-examining applicant's witnesses, and allowing closing argument at the close of the proceeding and in writing no later than the close of the 30-day written comment period (September 2, 2022).

6. On September 2, 2022, an attorney for opponents of siting approval filed an *ex parte* Post Hearing Brief in Opposition to Siting Application with the County.

7. On October 10, 2022, the same attorney e-mailed an eight-page single-spaced letter dated October 5, 2022 to the members of the County Board in anticipation of the meeting scheduled for the next day.

8. On October 11, 2022 the County Board held a roll call vote on the first of the nine statutory criteria for siting which resulted in six “no” votes, 4 “yes” votes and 4 abstentions. A true and correct copy of a news report of this action is attached hereto as Exhibit A. (Todd Stapleton, *Waste Transfer Station Site Application Fails to Pass Fayette County Board Vote*, VANDALIA RADIO, (Oct. 12, 2022, 5:47 AM), <https://www.vandaliaaudio.com/2022/10/12/waste-transfer-station-site-application-fails-to-pass-fayette-county-board-vote/>)

9. By reason and belief, the County Board never issued a decision “in writing, confirming a public hearing was held with testimony from at least one witness presented by the applicant, specifying the reasons for the decision” as required by Section 39.2(e) of the Illinois Environmental Protection Act. (415 ILCS 5/39.2(e))

10. By failing to take such action within 180 days of the filing of the application, *i.e.* by October 16, 2022, the application has been approved by operation of law.

11. Alternatively, any decision failed to address all applicable statutory criteria as required by Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2; see Clean Quality Resources v. Marion County Bd., PCB 90-216, slip op. at 3 (Feb. 28, 1991) (finding that failure to make findings on all criteria necessitated remand))

12. With respect to the any criteria at issue, the County Board’s own engineer found

that the application meets the required criteria, and any finding to the contrary is against the manifest weight of the evidence.

13. Furthermore, Petitioners were denied fundamental fairness when an opposing attorney filed an *ex parte* brief to the County Board and later mailed a letter to members of the County Board in violation of the Hearing Officer's orders. The goal of these communications was to persuade members of the County Board to abstain from voting and to not consider evidence such as it's own engineering report.

14. To the extent that the County Board failed to act within 180 days, the time for filing this petition is November 20, 2022. (35 Ill. Adm. Code § 107.204) To the extent that the County Board acted on October 11, 2022, the time for filing this petition is November 15, 2022. (Id.) In either case, this petition is timely filed.

WHEREFORE, Petitioner, Countryside Disposal, LLC prays that the Board (a) find that the County failed to timely act and deem the application approved by operation of law; (b) alternatively remand the matter to the County Board to vote pursuant to instructions from the Board; (c) reverse the County's action and (d) grant Petitioner such other and further relief as it deems meet and just.

COUNTRYSIDE DISPOSAL, LLC,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

Waste Transfer Station Site Application Fails to Pass Fayette County Board Vote

Vandalia, IL, USA / Vandalia Radio

[Todd Stapleton](#)

Oct 12, 2022 | 5:47 AM

A site application for a proposed waste transfer station in the county was not approved by the Fayette County Board on Tuesday night, after first criteria not approved. After a possible vote was tabled during the September meeting, the board took up the issue for their October meeting. It was relayed that the State's Attorney had advised them that the board would need to vote on each of the 9 site criteria from the Illinois Environmental Protection Agency individually using a roll call vote and that if just one criteria was not approved by the county board, then the site application would fail to be passed. Fayette County Board Chairwoman Jenny Waggoner then read the first criteria which states "the facility is necessary to accommodate the waste needs of the area it is intended to serve." By roll call vote, the motion failed with 6 "no" votes, 4 "yes" and four board members abstaining from the vote. Board members Glenn Gurtner, Jake Harris, Doug Knebel, Mack Payne, Ashley Towler and Deb Warner all cast "no" votes on the measure. Jenny Waggoner, James Wehrle, Keith Cole and Merrell Collins all cast "yes" votes on the measure and board members Glenda Bartels, John Cearlock, Matt Hall and Joe Wills abstained from the vote. With the first criteria not receiving board approval, no other criteria needed to be voted on as the site application is not approved by the county board.

Like 15

Tweet

Comments

Leave a Reply

You must be [logged in](#) to post a comment.

POLL -- What do you think should be done about Daylight Savings Time?

Legislation to make Daylight Savings Time permanent has passed the US Senate but has not been brought up for debate in the US House yet. What do you think should be done about it?

Keep it as it is now with two clock changes a year

35 Votes

Go with straight standard time year round (fall back and stay)

60 Votes

This website uses cookies to ensure you get the best experience on your website.

Learn More

