

ILLINOIS POLLUTION CONTROL BOARD
May 6, 2004

SUTTER SANITATION, INC. and)	
LAVONNE HAKER,)	
)	
Petitioners,)	
)	
v.)	PCB 04-187
)	(Permit Appeal - Land)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

On April 26, 2004, Sutter Sanitation, Inc. and Lavonne Haker (petitioners) timely filed a petition asking the Board to review a March 31, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). The Agency denied a request for a permit to develop a garbage transfer facility in Effingham County.

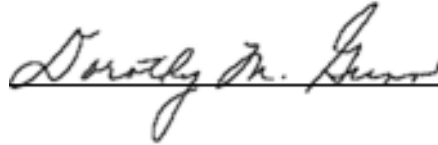
The petitioners appeal on the grounds that the Agency's decision violated due process, is not supported by the record, is inconsistent with public policy, law, and prior Board decisions in other cases, and is otherwise improper. The petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

The petitioners have the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only the petitioners may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the petitioners "may deem the permit issued." 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is August 24, 2004 (the 120th day after April 26, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 19, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 26, 2004, which is 30 days after the petitioners filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 6, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board