

ILLINOIS POLLUTION CONTROL BOARD
August 11, 1994

LAND AND LAKES COMPANY,)
JMC OPERATIONS, INC., and)
NBD TRUST COMPANY OF)
ILLINOIS as trustee under)
Trust No. 2624EG,)
)
Petitioners,)
)
v.) PCB 94-195
) (Land Siting Review)
VILLAGE OF ROMEOVILLE,)
)
Respondent.)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a number of motions. First, on August 8, 1994, a group of persons represented by the law firm of Schwartz & Freeman filed a petition for leave to file an *amicus curiae* brief. The petition states that these persons appeared at the hearings held by respondent Village of Romeoville, that many of the persons participated in the first hearings in this matter (held in September 1990), and that the persons are business and residential property owners near the Land and Lakes facility. The petition for leave to file an *amicus curiae* brief is granted.

Second, on August 9, 1994, the Village filed a motion to extend time to file the record, along with a motion for relief from the requirement that the motions be filed on recycled paper. That motion is granted, as to the instant motions only. As to the motion for extension of time to file the record, the Village notes that the record is due on August 11, but states that due to delays in receiving the Board's order, the voluminous content of the record, and the Village Clerk's other duties, compilation of the record cannot be completed by that date. The Village asks for an extension until August 25, 1994. That motion is granted: the record is now due on August 25, 1994.

Third, on August 9, 1994, petitioners Land and Lakes Co., JMC Operations, Inc., and NBD Trust Company of Illinois as Trustee under Trust No. 2624 EG (collectively, petitioners), filed a motion for relief from Board order. In essence, petitioners seek relief from the requirement, set forth in the Board's July 21, 1994 order in this matter, that the Village file seven copies of the entire transcript of hearings before the Village and three copies of other documents in the record. Petitioners state that the record is in excess of 20,000 pages, and that the large size of the record is partly due to the

introduction of materials relating to criteria and issues other than the need criterion, over petitioners' objections that only the need criterion was at issue before the Village. Petitioners propose that the Village submit the required seven copies of the certificate of record, but that the Village be required to submit seven copies of the transcripts relating only to the need criterion, as well as three copies of other documents relating to the need criterion. As to transcripts and documents not related to the need criterion, petitioners propose that the Village submit only the original.

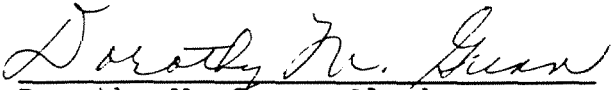
Petitioners' motion for relief from Board order is granted in part and denied in part. The request that the Village be allowed, or required, to separate portions of the record according to the subject matter of that record is denied. Although petitioners contend that only the need criterion is properly at issue, the Board cannot reach that conclusion at this time. Because we are required to review the Village's decision, we must have the entire record before us. We will, however, allow the Village to file just the original of the documents in the record (excluding the transcript). Thus, the Village shall file seven copies of all transcripts from the 1994 local hearings, and the original of all other documents. The Village need not file the transcripts from the local hearings at issue in PCB 91-7 and PCB 92-25.

In a related matter, in their July 19, 1994 petition for review, petitioners attempt to incorporate by reference the entirety of the records in PCB 91-7 and PCB 92-25, as well as the briefs and the decisions of the appellate court in case no. 3-92-0496. As we noted in our July 21, 1994 order, petitioners have failed to satisfy the requirements of Section 101.106 of our procedural rules. (35 Ill. Adm. Code 101.106.) That section requires a person seeking incorporation to file four copies of the material to be incorporated. The Board will allow the incorporation of the records in PCB 91-7 and PCB 92-25, as well as the briefs and decisions of the appellate court in case no. 3-92-0496. Because of the extensive history of this case, including multiple remands, and the voluminous nature of the records, the Board will allow the incorporation of the Board records in PCB 91-7 and PCB 92-25 without requiring the petitioner to provide copies. To the extent that the records of the previous Board cases have been incorporated into the record before the Village on this remand, the Village is responsible for that submission. However, petitioners shall provide one copy of the briefs and decisions from the appellate court case. Those submissions shall be made no later than August 25, 1994.

Finally, on August 8, 1994, Will County filed a petition for leave to intervene. Because the response time has not yet expired, the Board will defer ruling on that motion.

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 11th day of August, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board