ILLINOIS POLLUTION CONTROL BOARD
October 18, 1989

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| CHRISTIAN COUNTY LANDFILL, INC., Petitioner, | ) | |
| v. | ) | PCB 89-92 |
| CHRISTIAN COUNTY BOARD Respondent. | ) | |

RAYMOND T. REOTT, JENNER & BLOCK, APPEARED ON BEHALF OF CHRISTIAN COUNTY LANDFILL, INC.,; and

GREGORY B. GRIGSBY, STATE'S ATTORNEY, APPEARED ON BEHALF ON THE CHRISTIAN COUNTY BOARD.

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board upon a May 24, 1989 Petition for Hearing to Contest Decision of the Christian County Board, filed by the Petitioner, Christian County Landfill, Inc. ("CCL"), pursuant to Section 40.1 of the Environmental Protection Act (Ill. Rev. Stat. ch. 111-1/2, par 1040.1 (1987)) ("Act"). CCL appeals the portion of the April 21, 1989 decision of the Christian County Board which included conditions B-H with the Christian County Board's approval of CCL's application for site location approval for the expansion of its sanitary landfill. CCL challenges conditions B, E, F, G, and H as being beyond the legal power of the Christian County Board and as being against the manifest weight of the evidence and not supported by the record. CCL therefore requests that the Board strike the conditions included in the approval of CCL's site location.

The Board notes that no issues relating to the fundamental fairness of the procedures of the County Board have been raised. Based on the record, the Board finds that the hearing below was conducted in a fundamentally fair manner. For the reasons discussed below, the Board finds that the conditions attached to the approval of the Christian County Board are not reasonable and necessary to accomplish the purposes of Section 39.2 of the Act.

## BACKGROUND

On October 27, 1988, CCL submitted its application for a proposed expansion of its non-hazardous landfill in Taylorville, Illinois. CCL has been operating this site since 1978. In its

application, CCL requested an expansion of the vertical and horizontal area of its already-permitted site to be used for additional landfill disposal.

On February 7, 1989, the Christian County Board of Supervisors ("County Board") conducted a hearing on the proposed landfill expansion. On April 5, 1989, following the statutory 30-day period for written public comment, the County Board's Landfill Siting Committee issued an initial recommendation. The Siting Committee recommended approval of the proposed landfill expansion, along with the adoption of eight conditions labeled Conditions A-H. On April 21, 1989, the County Board adopted a Resolution granting the siting request set forth in the application. The County Board deleted Condition A from the list of conditions requested by the Siting Committee but did impose Conditions B-H on the facility.

On May 24, 1989, CCL filed its petition for a hearing to contest the County Board's decision. A hearing was held on July 26, 1989. No members of the public were in attendance with regard to the issues raised by this appeal. No additional evidence was introduced, and the briefing schedule was set. CCL submitted its opening brief on August 16, 1989; the County submitted its brief on August 21, 1989; and CCL submitted its reply brief on August 29, 1989.

## STATUTORY FRAMEWORK

Requirements for the siting of new regional pollution control facilities are specified in the Act. Section 39(c) of the Act provides that "no permit for the development or construction of a new regional pollution control facility may be granted by the (Environmental Protection) Agency unless the applicant submits proof to the Agency that the location of said facility has been approved by the County Board of the county if in an unincorporated area *** in accordance with Section 39.2 of this Act". The applicable criteria set forth in Section 39.2(a) are, in pertinent part:

> (a) The County Board *** shall approve the site location suitability for such new regional pollution control facility only in accordance with the following criteria:
>
> 1. the facility is necessary to accommodate the waste needs of the area it is intended to serve;
>
> 2. the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

3. the facility is located so as to minimize incompatibility with the character of the surrounding area and minimize the effect on the value of the surrounding property;

4. the facility is located outside the boundary of the 100 year flood plain, or the site is flood-proofed;

5. the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents;

6. the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;

7. if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

8. if the facility is to be located in a county where the county board has adopted a solid waste management plan, the facility is consistent with that plan; and

9. if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

Section 40.1 of the Act charges this Board with reviewing whether the CCB's decision was contrary to the manifest weight of the evidence. E & E Hauling, Inc. v. Illinois Pollution Control Board, 116 Ill. App. 3d 586, 451 N.E.2d 555 (2nd Dist. 1983), aff'd in part 107 Ill.2d 33, 481 N.E.2d 664 (1985); City of Rockford v. IPCB, 125 Ill. App. 3d 384, 386, 465 N.E.2d 996 (1984); Waste Management of Illinois, Inc., v. IPCB, 122 Ill. App. 3d 639, 461 N.E.2d 542 (1984). The standard of manifest weight of the evidence is:

> A verdict is...against the manifest weight of the evidence where it is palpably erroneous, wholly unwarranted, clearly the result of passion or prejudice, or appears to be arbitrary, unreasonable, and not based upon the evidence. A verdict cannot be set aside

> merely because the jury (County Board) could have drawn different inferences and conclusions from conflicting testimony or because a reviewing court (IPCB) would have reached a different conclusion...when considering whether a verdict was contrary to the manifest weight of the evidence, a reviewing court (IPCB) must view the evidence in the light most favorable to the appellee.
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> Steinberg v. Petra, 139 Ill. App. 3d 503, 508 (1986).

Consequently, if after reviewing the record, this Board finds that the County Board could have reasonably reached its conclusion, the County Board's decision must be affirmed. That a different conclusion might also be reasonable is insufficient; the opposite conclusion must be evident (see Willowbrook Motel v. IPCB, 135 Ill. App. 3d 343, 481 N.E.2d 1032 (1985)). The Board notes that the County Board approved CCL's application, finding that each of the criterion has been satisfied. There has been no appeal of the County's decision with respect to the criteria. Thus, the Board need not address the criteria.

Additionally, the Board must evaluate whether the County Board's procedures used in reaching its decision were fundamentally fair, pursuant to Section 40.1 of the Act. CCL raises no claim that the procedures used by the County Board were in any manner unfair. Based on this fact and on an independent review of the record, the Board finds that the proceedings before the Christian County Board were conducted in a fundamentally fair manner. The Board will now proceed to a review of the conditions.

After determining in its Resolution that CCL had satisfied its burden of proof on the statutory criteria, the County Board stated:

> The Christian County Board places the following conditions upon the operation of the Christian County Landfill, Inc. which are reasonable and necessary to ensure the operation of the proposed site will be in conformance with the criteria previously considered. The County Board in placing these conditions upon the operation of the Christian County Landfill, Inc. is considering the recommendations and findings of the Christian County Landfill Siting Committee.
>
> B. That any buyer or subsequent owner of the Christian County Landfill, Inc. must request approval by the Christian County

Board for use of the site involved in the present application.

C. That any buyer or subsequent owner of the Christian County Landfill, Inc. operate the site involved in the present application under the conditions now being imposed upon the Christian County Landfill, Inc.

D. That the Christian County Landfill, Inc. construct fencing and berms, not remove any tree lines presently on the site and care for or replace any tree lines which are affected or damaged by the use of the proposed site.

E. That Christian County refuse haulers be given priority at the proposed site for their refuse if any daily limit is reached provided the applicable fee for disposal is paid. Christian County refuse haulers shall be defined as any refuse hauler carrying refuse from or produced in Christian County.

F. That the Christian County Landfill, Inc. shall work with the Christian County Board after the development of a Solid Waste Management Plan by the county to incorporate the operation at the site with the plan as adopted.

G. That the Sheriff of Christian County, or the Christian County Health and Sanitary Officer or any designated body authorized by the Christian County Board shall have the right to inspect the premises or do testing of or at the proposed site as is deemed necessary to protect the citizens of Christian County.

H. That the Christian County Board shall have the power to impose those conditions which are reasonable and necessary to ensure that the operation of the Christian County Landfill, Inc. is in accordance with the criteria set forth in Chapter 111-1/2, Section 1039.2 of the Illinois Revised Statutes.

As previously stated, CCL appeals Conditions B, E, F, G, and H. Apparently, CCL agrees to abide by the terms of Conditions C and D. As a preliminary matter, the Board notes that the County's authority to impose conditions upon its local siting approval is found in Section 39.2(e) of the Act. Section 39.2(e) states in pertinent part:

> Decisions of the county board or governing body of the municipality are to be in writing, specifying the reasons for the decision, such reasons to be in conformance with subsection (a) of this Section. In granting approval for a site the county board or governing body of the municipality may impose such conditions as may be reasonable and necessary to accomplish the purposes of this Section and as are not inconsistent with regulations promulgated by the Board. (Emphasis added).

## CONTESTED CONDITIONS

### Condition B

In Condition B, the County Board stated that "any buyer or subsequent owner of the CCL must request approval by the County Board for use of the site involved in the present application." CCL argues that this condition exceeds the authority of the County Board and requests that the condition be stricken.

In support of its position, CCL argues that the Board has already rejected the argument that the local siting authority has a veto power over subsequent transactions. CCL cites Concerned Citizens Group v. County of Marion, PCB 85-97 (Nov. 21, 1985), for the proposition that the County has no right to review a post-approval transfer. CCL argues that the Agency has exclusive authority over permits, including transfers, and that any interest which the local siting body might have which conceivably could be related to the Act's siting criteria would be fully protected by the Agency approval required for the transfer of a permit. Also, CCL argues that Section 3.47 of the Act limits the circumstances requiring further local approval of an already approved site, and that because transfer of ownership or operating rights is not included in this Section, the County has no authority to impose it as a condition. Finally, CCL argues that the record does not support the condition.

The County Board asserts that Condition B is proper under Section 39.2(e) of the Act. The County argues that in considering the imposition of the condition, the County Board considered the evidence and testimony offered at the February 7, 1989 hearing concerning the operation of the landfill site by the present ownership. From the testimony and evidence provided, the

County Board determined that "the CCL proposed operation of the site satisfied the criteria (iii), (v), and (vi)." The County argues that:

> if the CCL were to sell its interest in the proposed site, the present approval of the site by the County Board could be based on an operation which no longer is present at the site. The new owner could expand the operation at the proposed site. This expanded operation could result in an operation which is not such that the public health, safety and welfare are protected, which causes danger to the surrounding area from fire, spills or other operational accidents and which causes a dangerous change in the traffic patterns by increased truck traffic.

Further, the County argues that it does not bar the transfer of the site, but rather it wishes to ensure that the safety of the citizens of the County is protected.

Although the Board appreciates the County's concern, the Board does not believe that Condition B is reasonable or necessary to accomplish the purposes of the Act. As a preliminary matter, the Board believes that the County may have been operating under a misconception when it gave as a reason that the new owner could expand the operation at the site which could threaten the public health and safety. Section 3.32 of the Act (which the Board believes CCL was referring to rather than Section 3.47) states that the area of expansion beyond the boundary of a currently permitted regional pollution control facility is a new regional pollution control facility which would require new siting approval. If by stating that the new owner could not expand the operation at the site the County meant the area of the landfill that could be expanded, the expansion would require new siting approval whether or not the condition was imposed. Thus, if this was the County's concern, the condition is not necessary.

If the County's use of the term "expand" is not related to area but rather to the method of operation of the site, the Board still believes that the condition is not reasonable or necessary. The Board notes that Section 39.2 authorizes the county board or governing body of a municipality to grant local siting approval only if the proposed facility meets the criteria set forth therein. Criterion 2, which apparently is the basis for this condition, states that:

> the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

The County Board has found that the application as submitted by CCL satisfies criterion 2 as well as all remaining criteria. Although Section 39.2(e) permits the county to impose such conditions "as may be reasonable and necessary" to accomplish the purposes of that Section, the conditions must relate to the Section 39.2(a) criteria. The Board does not see a relationship between the criteria and this condition.

First, the condition addresses a future occurrence which is not contemplated by any of the criteria. The criteria, in general, relate to the substantive merits of the existing application. The condition, however, relates to a future transfer of ownership of the site in question. Nowhere in the criteria is there any reference to future transfer of ownership of the proposed site. The criteria are silent on this issue. Thus, there is no articulated purpose in Section 39.2 that is being furthered by this condition.

Second, the Board construes the silence in Section 39.2 on this issue as indicative of an intent by the General Assembly to limit the authority of a local unit of government only to reviewing the merits of the initial application. Once the county determines that the criteria have been met and grants its site location approval, the county's authority under Section 39.2 is exhausted. The operational aspects of the new regional pollution control facility will be reviewed by the Agency during the permitting process to assure compliance with the Act and Board regulations. To permit the county board or local unit of government to oversee the operations at this point in time with the implication that the county board or local unit of government possesses the authority to divest the new regional pollution control facility of its siting approval could create havoc in the state's system of waste disposal. Therefore, the Board believes that this condition is not reasonable and necessary to accomplish the purposes of Section 39.2 of the Act.

CONDITION E

In Condition E, the County Board stated that "Christian County refuse haulers be given priority at the proposed site...if any daily limit is reached." CCL argues that the imposition of Condition E exceeds the authority of the County Board, and must therefore be stricken.

In support of its position, CCL argues that Condition E was related to Condition A, which was proposed by the Landfill Siting Committee but rejected by the County Board. Condition A apparently set forth a specific waste volume limit for each day. CCL argues that since Condition A was rejected, there is no daily limit and Condition E no longer has meaning. CCL argues further that to the extent it may have any meaning, the condition is beyond the authority of the County Board and is not reasonable

and necessary to implement the criteria in Section 39.2. CCL points out that priority for local refuse haulers is not one of the statutory criteria, and argues that it is not related to any of the criteria. Finally, CCL argues that even if Condition E were properly within the power of the County Board, it would run afoul of the United States Constitution. CCL cites City of Philadelphia v. New Jersey, 437 W.S., 617, 628 (1978), for the proposition that limits on the intake of out-of-state waste violate the Commerce Clause of the United States Constitution.

The County Board asserts that Condition E is within the powers given to it by the legislature when criterion 6 is considered. The County recognizes that surplus language relating to Condition A exists, and states that absent that language the condition is a consideration which is within the power of the County Board to impose given the limited evidence offered by CCL concerning out of county truck traffic. The county argues that:

> [r]efuse haulers within the county would not necessarily have to travel long distances within the county to reach the landfill site. The largest concentration of residents is located in Taylorville, Christian County's largest city. Truck traffic from this location especially would have only a short distance on Route 104 to travel to reach the Christian County Landfill, Inc. The Christian County Landfill, Inc. is not required to take local refuse at a reduced rate. Rather when the same applicable fee is paid, the Christian County haulers are to be given priority. The County argues that this condition is within the powers given to it by the legislature when criteria vi is considered. (County Brief at 6.)

The Board is not persuaded that this condition is reasonable or necessary to accomplish the purposes of Section 39.2. Criterion 6, the criterion upon which the County relies to support the condition, states:

> the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.

Compliance with this criterion is basically a question of fact--either the traffic patterns are designed to minimize the impact on existing traffic flows or they are not. The County Board has found in its Resolution that they are. Further, even if Condition A had not been rejected by the County Board, this Board does not believe that giving priority to Christian County refuse haulers would reduce or minimize the impact on existing traffic

flows. Finally, the Board notes that this condition appears somewhat inconsistent with the County Board's finding on criterion 1, which states:

> the facility is necessary to accommodate the waste needs of the area it is intended to serve. (Emphasis added.)

The Board questions what would be done with the refuse that is intended to be served by the facility but that would not be given priority under the condition. The record indicates that the facility is necessary to accommodate this refuse as well. To give priority to only a portion of the area's waste needs seems to imply that the facility is not necessary to accommodate the needs of the area characterized as non-priority wastes. As a result of all of the above, the Board finds that this condition is not reasonable or necessary to accomplish the purposes of Section 39.2 of the Act. The condition is therefore stricken.

Condition F

In Condition F, the County Board required that the CCL shall work with the Christian County Board after the development of a Solid Waste Management Plan by the county to incorporate the operation at the site with the plan as adopted. CCL argues that unless given a limiting construction, condition F exceeds the power of the Christian County Board.

As a preliminary matter, CCL states that it is willing to work with the County Board as part of its solid waste planning effort. CCL argues that for purposes of this appeal, however, Christian County must clarify that the obligation to work with the Board as set forth in Condition F does not in any way relinquish any rights that CCL has to challenge the plan itself in the event that the County exceeds its authority in the planning process. As long as Condition F is not considered to be a waiver of any rights which CCL might have to challenge the plan, then CCL has no objection to Condition F.

Christian County argues that this condition is a "valid exercise of its power under criterion ix of Section 39.2(a) of the Environmental Protection Act." County Brief at 7. The County states that Condition F indicates a desire by the County Board to conform with any future requirements imposed by the Illinois Legislature on the smaller populated counties within the state concerning the alternatives to solid waste disposal. The County states that the present condition merely requires the operation of the landfill to conform with a plan for solid waste management which is not yet required.

The Board believes that criterion 8 (not criterion 9 as alleged by the County) is the criterion upon which this condition is based. Criterion 8 states:

> if the facility is to be located in the county where the county board has adopted a solid waste management plan, the facility is consistent with that plan.

The Board believes that this criterion permits the county boards and governing bodies of municipalities to consider whether the application demonstrates consistency with an existing, already adopted solid waste management plan. The Board does not believe that this criterion permits county boards or governing bodies of municipalities to require consistency with a solid waste management plan not yet in existence. The Board agrees with CCL that this condition is susceptible to different constructions. Based on the requirement that CCL "work with" the County Board after development of a solid waste management plan, this Board does not construe the condition as constituting a waiver on behalf of CCL of any rights that it may have to challenge the solid waste management plan or its incorporation into the operation of the site. The condition simply requires CCL to work with the County to make CCL's operation of its site consistent with the plan.

As CCL states that "as long as Condition F is not considered to be a waiver of any rights which [CCL] might have to challenge the plan, then [CCL] has no objection to Condition F," the Board will permit the condition to stand. However, if the County's intent is to construe acceptance of this condition as a waiver of any right to challenge the plan, then the Board specifically finds that this condition is not reasonable as it goes beyond the authority of criterion 8 as described above.

CONDITION G

In Condition G, the County Board stated that the (County) shall have the right to inspect the premises or do testing of or at the proposed site as is deemed necessary to protect the citizens of Christian County. CCL challenges Condition G by arguing that it exceeds the authority of the County Board and interferes with the regulatory scheme established by the Act which delegates this type of authority to the Agency.

In support of its position, CCL argues that like any business, CCL is subject to local inspection if any activity at the site poses an immediate threat of harm to the public. CCL argues that if Condition G restates that power, it is redundant and unnecessary. CCL argues further that if Condition G purports to exceed this inherent power, it is preempted by the Act. CCL states that Section 4(r) of the Act allows the Agency to enter

into written delegation agreements with units of local government under which the Agency may delegate all or part of its inspection, investigation and enforcement functions. CCL argues that pursuant to Section 4(r), the unit of local government must enter into a written delegation agreement, which would require Agency oversight, proper training and a period of concurrent inspection to ensure that the local authorities properly fulfill their responsibilities.

In defense of its condition, the County states that Condition G is an exercise of the County's powers granted under criteria 2 and 5 of Section 39.2 of the Act. The County argues that Condition G is very similar in form to a condition which was present in Browning Ferris Industries of Illinois v. Lake County, PCB 82-101 (Dec. 28, 1982). Moreover, the County argues that its Condition G is less obtrusive than in that case in that there is no special provision for "unannounced inspections".

In its Brief, CCL responds to the Browning Ferris case, noting (1) that the Board struck the condition, (2) that the Appellate Court remanded for a re-evaluation of the condition in light of the authority of the local government to impose at least some technical conditions, (3) that the Court did not discuss the Board's reasoning, and (4) that on remand, the parties settled the case, and the Board did not reevaluate the inspection condition.

The Board is not persuaded that Condition G is reasonable or necessary to accomplish the purposes of criteria 2 and 5 of Section 39.2. The County, by its approval, has found that those criteria have been satisfied by CCL's application. The Board does not interpret those criteria as permitting the County to retain oversight and inspection authority after rendering a decision on the merits of an application. The Board agrees with CCL that the administrative citation process, as set forth in Section 4(r), 31.1, and 42 of the Act, is the sole means under the Act by which a County or other local unit of government may obtain inspection authority from the Agency. Under the Act, the Agency is endowed with inspection authority and it alone may delegate its authority. The County is free to seek such a delegation from the Agency. Finally, the County's reliance on Browning Ferris is not persuasive. When that case was decided, the administrative citation process was not yet in existence. As a result of all the foregoing, Condition G is stricken.

CONDITION H

In Condition H, the County states that it shall have the power to impose those conditions which are reasonable and necessary to ensure that the operation of the CCL is in accordance with the criteria set forth in Section 39.2 of the

Act. CCL argues that the County exceeded its authority is imposing this condition.

CCL argues that the County lacks the legal power to continue to promulgate new conditions in the indefinite future. CCL argues that future regulatory authority is not reasonable or necessary to accomplish the purposes of assuring that the applicant has demonstrated that the proposed facility is designed to meet the statutory criteria. CCL argues that in Browning Ferris, discussed above, the Board has considered and rejected post-approval regulatory power. Also, CCL argues that such post-approval authority would interfere with the siting process established by the Act and with the Agency's permitting process. Finally CCL argues that the condition is not supported by the record.

The County states that Condition H provides the County with the power to impose conditions at a future date. The County argues that the bulk of the criteria deal with the protection of the citizens from certain dangers in the operation of the landfill site. The County argues that the "powers" granted by the criteria are "continuing powers". The County states:

> "The County's job of protecting the citizens of Christian County does not end with the approval of the landfill site. The County does not lose control over the operation of this business within its borders. Any interpretation of Section 39.2 of this Act which limits the powers of this County to enforce the criteria of Paragraph (a) of Section 39.2 would result in the usurpation of the powers the County which were present before the siting was given. The County cannot be restricted in its power to protect its citizens from the operations at the Christian County Landfill, Inc. Furthermore, the Illinois Environmental Protection Agency is an inadequate alternative for redress of grievances of the protection of its citizens. The County cannot and is not required to rely on the Illinois Environmental Protection Agency to protect its citizens. Section 39.2 gives Christian County the continuing power to enforce the criteria to ensure that its citizens are protected from the operation at the landfill site. Any ruling to the contrary would be an invasion of the Christian County's powers to control the activities within its borders which are dangerous to the public health, safety and welfare and an improper erosion of the Christian County's inherent police powers. Condition H is a valid exercise of the County's powers. The County retains no power to remove the

landfill siting approval previously granted under Condition H.

In its reply, CCL argues that the County confuses its otherwise existing police powers with the limited statutory power provided in Section 39.2 to impose conditions on an approved landfill. CCL argues that the landfill siting process neither takes away from nor adds to the otherwise existing police powers of the County to protect its citizens. Further, CCL argues that the County retains any police powers that it might have to protect the citizens of the County with regard to activities at the landfill. However, the County does not have the power to impose additional regulations later as a result of the siting process.

The Board agrees. The Board believes that Condition H is not reasonable and necessary to accomplish the purposes of Section 39.2 of the Act. As a preliminary matter, the Board reemphasizes that if the County wishes to maintain oversight over the landfill's operations to ensure the protection of its citizens, the County may seek Agency delegation under the administrative citation process discussed above. Further, the Board notes that if the County believes that the Agency is an "inadequate alternative for redress of grievances or the protection of its citizens", the County's remedy lies in the General Assembly and/or in the courts, not in Section 39.2 of the Act. Section 39.2 affords the County or local unit of government the power to approve or disapprove the site location suitability based upon a review of the criteria set forth therein. Once the county or local unit of government renders its decision, the power of the county or local unit of government under Section 39.2 of the Act is exhausted. To allow the county or local government to maintain power under Section 39.2 would threaten the finality of decisions rendered thereunder and could compromise the Agency's statutory permitting process. As a result, the Board does not believe that Section 39.2 grants "continuing powers" as the County alleges. This is not to hold, however, that the County's police power is in any way diminished by Section 39,2 of the Act. Whatever police powers the County may have, it retains. However, the County cannot base such "continuing powers" on Section 39.2 of the Act. As a result, Condition H is stricken.

In sum, the Board has today reversed the County's imposition of Conditions B, E, F (insofar as this condition was challenged), G, and H. The Conditions are no longer part of the County's approval.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The April 21, 1989 decision of the Christian County Board imposing Conditions B, E, G, and H with the approval of Christian County Landfill, Inc.'s application for site location suitability approval is hereby reversed. That part of Condition F that is challenged by Christian County Landfill, Inc. is similarily reversed.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, 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 established filing requirements.

IT IS SO ORDERED.

Board Members J. Dumelle and B. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 18th day of October, 1989 by a vote of 5-2.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board