

ILLINOIS POLLUTION CONTROL BOARD
May 7, 1992

STEPHEN A. SMITH, d/b/a ABC)
SANITARY HAULING, JOHN APPL, d/b/a)
APPL SANITARY SERVICE, LAWRENCE)
W. BOLLER II, d/b/a AREA GARBAGE)
SERVICE, CHARLES H. MILLER, d/b/a)
C.H. MILLER SANITARY, CHRIS)
JOHNSON, d/b/a CHRIS'S SERVICE CO.,)
EDDIE L. COOK, SR., d/b/a COOK'S)
SANITARY HAULING, DON CORY, d/b/a)
CORY SANITARY HAULING, RONALD E.)
HAYDEN, d/b/a HAYDEN SANITARY SERVICE,)
GORDON FICKLIN, d/b/a ILLINI SANITARY)
SERVICE, CHRIS YAGER, d/b/a KLEAN-WAY)
DISPOSAL, GEORGE McLAUGHLIN, d/b/a)
McLAUGHLIN SANITARY, CHERYL MANUEL,)
d/b/a ROLLAWAY WASTE, RONALD W. MANUEL,)
d/b/a RON MANUEL SANITARY, RUSSELL)
SHAFFER, d/b/a SHAFFER SANITARY CO.,)
WILLIAM C. UDEN, d/b/a UDEN & SONS)
SANITARY HAULING, and WILLIS SANITARY)
HAULING, INC.,)
)
)
Petitioners,)
)
v.)
)
)
)
CITY OF CHAMPAIGN, ILLINOIS)
INTERGOVERNMENTAL SOLID WASTE DISPOSAL)
ASSOCIATION, XL DISPOSAL CORPORATION,)
J.M. JONES COMPANY, and)
DUKE & ASSOCIATES,)
)
)
Respondents.)

PCB 92-55
(Landfill Siting
Review)

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

This matter is before the Board on respondents Intergovernmental Solid Waste Disposal Association (ISWDA) and XL Disposal Corporation (collectively ISWDA) April 23, 1992 motion "to make more definite and certain the appeal". On April 27, 1992, petitioners Steven A. Smith, d/b/a ABC Sanitary Hauling, et al., (collectively, petitioners) filed their response in opposition to the motion.

ISWDA asks that petitioners be required to specify the factual basis for the issues alleged in paragraph 25 (a), (b), (c), (d), (f), (h), and (i) of petitioners' appeal. ISWDA contends that because petitioners have not specified any factual

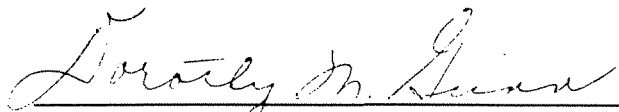
basis for those seven issues, ISWDA cannot adequately respond to the appeal and prepare for hearing. In opposing the motion, petitioners argue that ISWDA's motion essentially requests that petitioners post-hearing brief be incorporated into the original appeal documents, and point out that the record on appeal has not yet been filed by respondent the City of Champaign. Petitioners contend that their appeal and petition for hearing is far more specific than would appear to be required, particularly when compared to the necessary elements of any notice of appeal in the courts. (Supreme Court Rule 303(c).)

The motion to make more definite and certain is denied. As petitioners point out, the hearing on this petition is limited to the record created before the local decisionmaker, except for any matters relating to the fundamental fairness of the local proceeding. After reviewing the petition for hearing, the Board finds that the petition is sufficiently specific so that ISWDA may prepare for hearing. There is nothing in the Board's rules which requires a petitioner to specify the factual bases for an appeal, as opposed to a requirement that the issues on appeal be identified. Therefore, the motion is denied.

IT IS SO ORDERED.

J. Marlin abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of May, 1992, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board