

ILLINOIS POLLUTION CONTROL BOARD

June 6, 2002

GERE PROPERTIES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 02-201
	)	(Third-Party Pollution Control Facility
JACKSON COUNTY BOARD and	)	Siting Appeal)
SOUTHERN ILLINOIS REGIONAL	)	
LANDFILL, INC.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On May 15, 2002, Gere Properties, Inc. (Gere) filed a petition asking the Board to review an April 10, 2002 decision of the Jackson County Board (Jackson County). Jackson County granted Southern Illinois Regional Landfill, Inc.'s (SIRL's) application to site a pollution control facility in Jackson County. Gere appeals on the grounds that that Jackson County's decision that the proposed facility is necessary to accommodate the waste needs of its intended service area is against the manifest weight of the evidence. For the reasons set forth below, the Board accepts the petition for hearing.

**THIRD-PARTY APPEAL**

Section 40.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/40.1(b) (2000)) allows certain third parties to appeal a local government decision granting approval to site a pollution control facility. Third parties who participated in the local government's public hearing and who are so located as to be affected by the proposed facility, may appeal the siting decision to the Board. 415 ILCS 5/40.1(b) (2000); 35 Ill. Adm. Code 107.200(b). The petition for review must, among other things, specify the grounds for appeal and include a copy of the local government's siting decision. 35 Ill. Adm. Code 107.208. The third party must file the petition within 35 days after the local government approves siting. 415 ILCS 5/40.1(b) (2000); 35 Ill. Adm. Code 107.204. Unless the Board determines that the third party's petition is "duplicitous or frivolous," the Board will hear the petition. 415 ILCS 5/40.1(b) (2000); 35 Ill. Adm. Code 107.200(b).

Gere's petition states that it participated in Jackson County's public hearings and that it is so located as to be affected by the proposed facility. Gere specifies the grounds for the appeal and includes a copy of Jackson County's siting decision. The petition meets the content requirements of 35 Ill. Adm. Code 107.208. Gere also filed its petition within 35 days after Jackson County approved siting.

### HEARING AND DECISION DEADLINE

An action before the Board is duplicitous if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. An action before the Board is frivolous if it is “a request for relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.* No evidence before the Board indicates that this action is duplicitous or frivolous. The Board accepts Gere’s petition for hearing.

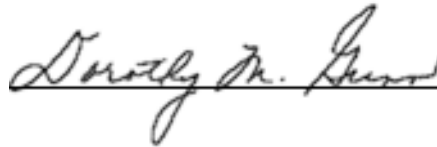
Gere has the burden of proof. 415 ILCS 5/40.1(b) (2000); *see also* 35 Ill. Adm. Code 107.506. Hearings will be based exclusively on the record before Jackson County. 415 ILCS 5/40.1(b) (2000). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.1(a), (b) (2000)), which only SIRL may extend by waiver (35 Ill. Adm. Code 107.504; *see also* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, SIRL “may deem the site location approved.” 415 ILCS 5/40.1(a) (2000). Currently, the decision deadline is September 12, 2002, (the 120th day after May 15, 2002). *See* 35 Ill. Adm. Code 107.504. The Board meeting immediately before the decision deadline is scheduled for September 5, 2002.

### JACKSON COUNTY’S RECORD

Jackson County must file the entire record of its proceedings on or before June 20, 2002. The record must comply with the content and certification requirements of 35 Ill. Adm. Code 107.304, 107.308. Gere must pay to Jackson County the cost of preparing and certifying the record. 415 ILCS 5/39.2(n) (2000); 35 Ill. Adm. Code 107.306.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 6, 2002, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board