

ILLINOIS POLLUTION CONTROL BOARD
March 2, 1989

McLEAN COUNTY DISPOSAL)
SERVICE, INC.,)
)
Petitioner,)
)
v.) PCB 88-195
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

This matter is before the Board on a motion for reconsideration and to reinstate filed by petitioner McLean County Disposal Service, Inc. (MCD) on February 14, 1989. Respondent Illinois Environmental Protection Agency (Agency) filed its response on February 23, 1989.

MCD seeks reconsideration of the Board's February 2, 1989 order granting the Agency's motion to dismiss this permit appeal. That motion to dismiss was based upon a claim that MCD did not have local siting approval for its landfill, as is required by Sections 39(c) and 39.2 of the Environmental Protection Act (Act). Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1039(c) and 1039.2. MCD had not waived the 120-day statutory decision deadline, and thus the Board could not stay the proceeding. The Board found that proceeding with this permit appeal would be a waste of resources when it could not grant the relief sought by MCD, and thus dismissed the proceeding.

In its motion for reconsideration and to reinstate, MCD asks the Board to reinstate the permit appeal and stay further action on that appeal until the local siting issue is resolved. MCD maintains that such action would conserve the resources of both parties, because it would relieve MCD of the burden of refiling its permit application and relieve the Agency of the burden of reviewing that permit application for a second time. MCD has waived the statutory decision deadline. (Motion, p. 2.) In response, the Agency states that it agrees to reinstatement of the permit appeal only if MCD's motion constitutes a waiver of the decision deadline, and if all proceedings in the permit appeal are stayed pending final resolution of the local siting issue.

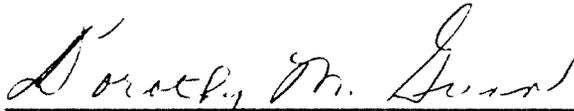
The Board is reluctant to grant MCD's motion, because it feels that MCD made its decision on how to proceed in this case

when it opposed the Agency's motion to dismiss. However, the Board agrees that reinstatement of the permit appeal, coupled with a stay, would conserve the resources of both MCD and the Agency. The Board finds that MCD's motion does contain an open waiver of the statutory decision deadline, and thus grants MCD's motion to reconsider and reinstate. Further proceedings on this permit appeal are stayed until final resolution of the local siting issue. That final resolution includes the exhaustion of all appeals in the local siting proceeding. So that the Board may be apprised of the progress of the local siting proceeding, MCD shall submit a status report every six months. Additionally, MCD shall immediately inform the Board of all final actions taken by any reviewing court.

IT IS SO ORDERED.

R. Flemal was not present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2nd day of March, 1989, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board