

ILLINOIS POLLUTION CONTROL BOARD
April 7, 1983

FRINK'S INDUSTRIAL WASTE, INC.,)
)
 Petitioner,)
)
 v.) PCB 83-41
)
CITY OF ROCKFORD,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On March 25, 1983, Frink's Industrial Waste, Inc. filed an appeal of the February 21, 1983 decision of the City of Rockford to deny regional pollution control facility site location approval pursuant to SB 172, §39.2 of the Act. The liquid industrial waste processing and transfer facility was proposed to be constructed at the southwest corner of Kishwaukee Street and Boeing Drive in the South Bypass Industrial Park in Rockford.


As the City of Rockford alone can verify and certify what exactly is the entire record before it, in the interest of protecting the rights of all parties to this action, and in order to satisfy the intention of SB 172, the City must be the party to prepare and file the record on appeal. The Board suggests that guidance in so doing can be had by reference to Rule 502(a)(4) of the Board's Procedural Rules and to Rules 321 through 324 of the Illinois Supreme Court Rules. In addition to the actual documents which comprise the record, the City Clerk shall also prepare a document entitled "Certificate of Record on Appeal" which shall list the documents comprising the record. Two copies and a copy of the certificate shall be served upon the petitioner. The City Clerk is given 21 days from the date of this Order to "prepare, bind and certify the record on appeal" (Ill. Supreme Court, Rule 324).

In light of the Board's experience with records in this sort of action, the Board advises Respondent to include in the record any and all procedural rules it may have adopted to handle this type of action.

The Board reminds the parties that SB 172 provides that "if there is no final action by the Board within 90 days, petitioner may deem the site location approved". As the Board construes this provision as allowing for waiver (or extension) of this deadline only by petitioner, delay in the filing of the "record on appeal" could prejudice respondent. Hearing may be scheduled and noticed pending the filing of the record, but it shall in no event be held until 10 days after the record has been filed with the Board.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 7th day of April, 1983 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board