

ILLINOIS POLLUTION CONTROL BOARD
August 18, 1982

BROWNING-FERRIS INDUSTRIES)	
OF ILLINOIS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 82-101
)	
LAKE COUNTY BOARD OF SUPERVISORS,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Anderson):

Pursuant to SB 172, P.A. 82-682, Browning-Ferris Industries of Illinois, Inc. is appealing conditions contained in the grant by the Lake County Board of Supervisors of site location approval for acceptance of special wastes at an existing landfill located in unincorporated Lake County. This appeal has been timely filed, in that Lake County gave its approval by a final written decision on July 13, 1982, and this appeal was filed with the Board August 16, 1982.

SB 172, as codified in Section 40.1(a) of the Act, provides that the hearing before the Board is to "be based exclusively on the record before the county board". The statute does not specify who is to file with the Board the record before the county, or who is to certify to the completeness or correctness of the record.

As the Lake County Board 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 Board believes that Lake County 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 County Board clerk shall also prepare a document entitled "Certificate of Record On Appeal" which shall list the documents comprising the record. Two copies of the certificate and the record shall be filed with the Board, and a copy of the certificate shall be served upon the petitioner. As these requirements are not stated in the Board's Procedural Rules, the County Board 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).

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 18th day of August, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board