

ILLINOIS POLLUTION CONTROL BOARD  
May 29, 1984

INDUSTRIAL SALVAGE, INC., )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 83-173  
 )  
 ) COUNTY BOARD OF MARION COUNTY, )  
 )  
 ) Respondents. )

ORDER OF THE BOARD (by B. Forcade):

This appeal was filed May 16, 1984, pursuant to SB 172, P.A. 82-682, Section 40.1(a) of the Environmental Protection Act. Industrial Salvage, Inc., ("Industrial") is appealing a May 8, 1984 decision of the Marion County Board of Supervisors ("Marion") denying site location suitability for a new regional pollution control facility. The May 8, 1984 decision was a result of this Board's reversal and remand of Marion's prior decision in this matter (See PCB 83-173, February 22, 1984).

As the Marion 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 the 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 Section 105.102(a)(4) of the Board's Procedural Rules and to Rule 321 through 324 of the Illinois Supreme Court Rules. In addition to the actual documents which comprise the record, the County Clerk shall also prepare a document entitled "Certificate of Record on Appeal" which shall list the documents comprising the record. Four 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. Marion is given 14 days from the date of this Order to file the record and certificate of record.

Section 40.1(b) provides that the petition shall be heard "in accordance with the terms of" Section 40.1(a). Section 40.1 (a) provides that if there is no final action by the Board within 90 days, petitioner may deem the site location approved.

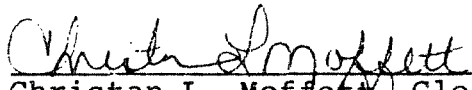
The Board has construed identical "in accordance with the terms of" language contained in Section 40(b) of the Act concerning third-party appeals of the grant of hazardous waste landfill permits as giving the respondent who had received the permit a) the right to a decision within 90 days, and b) the right to waive (extend) the decision period (Alliance for a Safe Environment, et al. v. Akron Land Corp. et al., PCB 80-184, October 30, 1980). The

Board therefore construes Section 40.1(b) in like manner, with the result that failure of the Board to act in 90 days would allow respondent to deem the site location approved. Pursuant to Section 105.104 of the Procedural Rules, it is each petitioner's responsibility to pursue its action, to insist that a hearing on its petition is timely scheduled, and to insure that a transcript of the hearing is timely filed with the Board in order to allow the Board to review the record and to render its decision within 90 days of the filing of this petition, on May 16, 1984. The parties are encouraged to act promptly on this matter as the Board anticipates that all filings and transcripts will be received by the Board not later than 30 days before decision is due.

Industrial Salvage, in its petition of May 16, 1984, states that a true copy of the Marion County Board of Supervisor's written decision is attached. No true copy of this decision was attached to the petition. A copy of this decision should therefore be filed with the Board as quickly as possible.

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 29<sup>th</sup> day of May, 1984 by a vote of 6-0.

  
 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board