

ILLINOIS POLLUTION CONTROL BOARD
July 26, 1982

WASTE MANAGEMENT, INC.,)
a Delaware Corporation,)
)
Petitioner,)
)
v.) PCB 82-55
)
BOARD OF SUPERVISORS OF)
TAZEWELL COUNTY,)
)
Respondent.)

ORDER OF THE BOARD (by I. Goodman):

The City of East Peoria (East Peoria) moves for reconsideration of the Board's July 21st Order in this matter which affirmed East Peoria's intervention, denied further public hearings and established a briefing schedule for the three parties. East Peoria's motion for reconsideration is premised on information contained in a hearing officer's order. The hearing officer's order was issued on July 16, 1982 and filed with the Board on July 21, 1982. Since this order was not before the Board when it ruled on Waste Management of Illinois, Inc. (Waste Management) motion for conclusion of hearings and exclusion of additional evidence on July 21, 1982, the motion for reconsideration is granted.

East Peoria argues that Waste Management had agreed to extend the statutory ninety-day decision time until and including September 2, 1982 under the terms of the July 16, 1982 hearing officer order. Waste Management argues that the waiver agreed to therein was conditional on the Board's ruling on its motion for conclusion of hearings and exclusion of additional evidence, filed July 8, 1982. The hearing officer's order granted a motion by Waste Management for discovery and deposition of East Peoria's expert witnesses, set public hearing for August 16, 1982 and stated that Waste Management had agreed to extend the ninety-day decision period. In the last paragraph, the provisions of this order are expressly conditioned on the Board's ruling on Waste Management's motion for conclusion of hearing and exclusion of additional evidence.

The Board cannot construe the agreement by Waste Management to extend the decision period to be more than a conditional waiver offered by Waste Management in an effort to expedite the public hearing process should additional hearings have been granted. A conditional waiver is insufficient for the Board to reverse

its July 21st Order. Furthermore, in reconsidering that Order the Board recognizes that undue emphasis was given to the statutory deadline when it ruled hearings concluded. Time was a factor, but the Board also concludes that opportunity had been afforded East Peoria to challenge the record to be reviewed by the Board at the July 1, 1982 public hearing. Therefore, the following sentence is deleted from the July 21, 1982 Board Order:

"Therefore, since the statutory deadline for decision in this matter is August 6, 1982, there is insufficient time to hold additional hearings as anticipated by the hearing officer's continuance."

The Board's Order is otherwise reaffirmed and East Peoria's motion for an August 16, 1982 hearing and revised briefing schedule is denied.

IT IS SO ORDERED.

Board Member Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 26th day of July, 1982 by a vote of 4-1.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board