

ILLINOIS POLLUTION CONTROL BOARD  
November 25, 1987

CITY OF ROCKFORD, )  
a Municipal Corporation, )  
 )  
Petitioner, )  
 )  
vs. ) PCB 87-92  
 )  
WINNEBAGO COUNTY BOARD, )  
 )  
Respondent. )

ORDER OF THE BOARD (by B. Forcade):

On November 19, 1987, the Board, by a 5-2 vote, vacated the decision of the Winnebago County Board ("County") which denied site location suitability approval, and remanded the matter back to the County. The Order of November 19, 1987, is an interlocutory order not otherwise appealable except in accordance with Supreme Court Rule 308 ("SCR").

SCR 308(a) provides as follows:

"When the trial court, in making an interlocutory order not otherwise appealable, finds that the order involves a question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the court shall so state in writing, identifying the question of law involved. Such a statement may be made at the time of the entry of the order or thereafter on the court's own motion or on motion of any party. The Appellate Court may thereupon in its discretion allow an appeal from the order."

Ill.Rev.Stat. 1983, ch. 110A, par. 307

The Board has authority to issue such a statement (also known as a "Certificate of Importance") in accordance with Supreme Court Rule 335 (Ill.Rev.Stat. 1983, ch. 110A, par. 335) and Getty Synthetic Fuel v. PCB, 104 Ill.App.3d 285 (1st Dist. 1982).

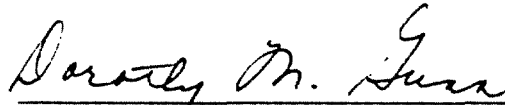
Pursuant to SCR 308, and on its own motion, the Board finds that its November 19, 1987, Order involves a question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. The questions of law certified for appeal are as follows:

1. Whether the Board correctly determined that the Winnebago County Board developed the hearing record in a fundamentally fair manner but its decisionmaking process was fundamentally unfair; and
2. Whether the Board correctly determined that remand was an appropriate remedy to correct the fundamentally unfair decisionmaking process utilized by the Winnebago County Board,

IT IS SO ORDERED

Board Member J. Theodore Meyer was not present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25~~th~~ day of November, 1987, by a vote of 6-0.



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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board