

ILLINOIS POLLUTION CONTROL BOARD  
October 17, 2002

LANDFILL 33, LTD.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-43
	)	(Third-Party Pollution Control Facility
EFFINGHAM COUNTY BOARD and	)	Siting Appeal)
SUTTER SANITATION SERVICES,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by C.A. Manning):

On October 10, 2002, Landfill 33, Ltd. (Landfill 33) filed a petition asking the Board to review a September 19, 2002 decision of Effingham County Board (County Board). The County Board granted Sutter Sanitation Services' (Sutter) application to site a pollution control facility in an unincorporated area of Effingham County. Landfill 33 appeals on the grounds that the County Board decision was against the manifest weight of the evidence, and the proceedings were fundamentally unfair.

Section 40.1(b) of the Environmental Protection Act (Act) (415 ILCS 5/40.1(b) (2000) *as amended by P.A. 92-0574, eff. June 26, 2002*) allows certain third parties to appeal a local government decision granting approval to site a pollution control facility. Third parties who participated in the local government's public hearing and *who are so located as to be affected by the proposed facility* may appeal the siting decision to the Board. 415 ILCS 5/40.1(b) (2000) *as amended by P.A. 92-0574, eff. June 26, 2002*; 35 Ill. Adm. Code 107.200(b) (emphasis added). The petition for review must, among other things, specify the grounds for appeal and include a copy of the local government's siting decision. 35 Ill. Adm. Code 107.208. The third party must file the petition within 35 days after the local government approves siting. 415 ILCS 5/40.1(b) (2000) *as amended by P.A. 92-0574, eff. June 26, 2002*; 35 Ill. Adm. Code 107.204. Unless the Board determines that the third party's petition is "duplicative or frivolous," the Board will hear the petition. 415 ILCS 5/40.1(b) (2000) *as amended by P.A. 92-0574, eff. June 26, 2002*; 35 Ill. Adm. Code 107.200(b).

Landfill 33's petition states that it participated in the County Board's public hearing, specifies the grounds for the appeal, and includes a copy of the County Board's siting decision. However, the petition does not meet the content requirements of 35 Ill. Adm. Code 107.208 because it fails to state that Landfill 33 is so located as to be affected by the proposed facility.

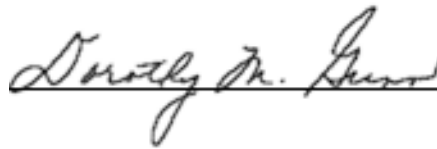
The Board cannot accept Landfill 33's petition for hearing unless and until Landfill 33 has demonstrated that it has satisfied all of the Section 40.1(b) standing requirements for the initiation of this appeal. Landfill 33 has seven days to file an amended petition, which must be postmarked no later than October 24, 2002 (the 35th day after the September 19, 2002 County

decision). Due to the tightness of this time frame, the Board directs the assigned hearing officer to notify the parties of the contents of this order today by telephone or telefax. The statutory decision date will be calculated from the date on which the corrected petition is filed.

Finally, the Board's statutory decision date under Section 40.1(a) will be calculated from the date on which any amended petition is filed. In the event no amended petition is filed, the Board will dismiss this petition and close the docket at one of its regularly scheduled November meetings.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 17, 2002, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board