

ILLINOIS POLLUTION CONTROL BOARD
April 16, 1987

PETER VALESSARES AND)
EDWARD F. HEIL,)
)
Petitioners,)
)
v.) PCB 87-36
)
THE COUNTY BOARD OF KANE COUNTY)
AND WASTE MANAGEMENT OF)
ILLINOIS, INC.)
)
Respondents.)

ORDER OF THE BOARD (by B. Forcade):

On April 7, 1987, Respondent Waste Management of Illinois, Inc. ("WMI") filed a motion to dismiss the Petition for Review filed by Peter Valessares ("Valessares") and Edward F. Heil ("Heil") for the reason that neither petitioner complies with the standing requirements set forth in Section 40.1(b) of the Illinois Environmental Protection Act. Petitioners Valessares and Heil responded to the motion to dismiss on April 15, 1987. Because the Board's decision on this motion could result in final disposition of the case we believe it is appropriate to request briefs on the issues raised in the motion to dismiss. The parties have until April 27, 1987, to file simultaneous briefs on the following issues:

- 1) Whether Heil "participated" in the county level proceedings in a manner that confers standing to appeal the local decision, and
- 2) Whether Valessares is "so located as to not be affected by the proposed facility".

Additionally, the general standing issue should be addressed in light of McHenry County Landfill, Inc. v. IEPA, et al., Nos. 2-86-265 and 2-86-369 (2nd Dist., filed March 30, 1987).

During the pendency of the briefing and Board disposition of the motion to dismiss, discovery and hearing should continue as scheduled.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16th day of April, 1987, by a vote of 5-1.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board