ILLINOIS POLLUTION CONTROL BOARD
October 1, 1987

A.R.F. LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 87-51
	)	
LAKE COUNTY,	)	
	)	
Respondent.	)	

MESSRS RICHARD J. KISSEL AND BRADLEY R. O'BRIEN, MARTIN, CRAIG, CHESTER AND SONNENSCHEIN, APPEARED ON BEHALF OF PETITIONERS;

MESSRS FRED L. FOREMAN, STATE'S ATTORNEY OF LAKE COUNTY, AND LARRY M. CLARK ASSISTANT STATE'S ATTORNEY AND BERNARD WYSOCKI, SPECIAL ASSISTANT STATE'S ATTORNEY APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board on a Siting Application Appeal filed by Petitioner on April 27, 1987. Specifically, Petitioner appeals the March 24, 1987 decision of a Lake County Board denying local siting approval to Petitioner's planned expansion of an existing landfill in Lake County, Illinois. The Lake County Board reached its decision after 16 days of hearings at which various persons participated, including A.R.F. Landfill, Inc., the Lake County Joint Action Solid Waste Planning Agency, Libertyville Township, C.L.E.A.R., the Casey-Almond Group, the Illinois Attorney General's Office and William Alter. At the County Board hearing Petitioner presented witnesses, testimony and evidence in favor of the application. Likewise, objector's and concerned citizens were afforded similar opportunity to present evidence and make public comment. The County Board hearing generated approximately 4,000 pages of transcript, pleadings, motions and argument and 127 exhibits.

MOTION FOR SANCTIONS:

On May 22, 1987, Petitioner's filed Interrogatories and Requests To Produce to be answered by Lake County Board Members. The interrogatories sought to discover the occurrence of alleged ex-parte contacts and the existence of prejudice among members of the County Board. On June 5, 1987 the Hearing Officer granted Petitioner's motion for discovery; thereby compelling individual County Board Members to respond to the interrogatories. However, realizing that time was short, the Hearing Officer's order provided as follows: "Respondents shall supply justification for the inability of any member to respond

to the discovery at that date." Notwithstanding the Hearing Officer's order to the contrary, each and every member of the County Board failed to comply. The first responses to discovery were not filed until June 16, 1987 [this only after petitioner filed an Emergency Motion For Sanctions] and the last responses were not filed until July 9, 1987 -- two weeks after hearing. None of the responses contained any explanation or justification for failing to comply with the explicit content of the Hearing Officer's order.

On July 15, 1987, Petitioner filled an Emergency Motion For Sanctions, which, inter alia, identified the extremely short statutory time limitations and further alleged that Respondent's failure to comply with the Hearing Officer's order severely prejudiced petitioner's ability to prepare for hearing [scheduled and held on June 24, 1987]. Significantly, Petitioner fails to allege exactly how it was prejudiced by respondent's failures. Respondent did not file its Response To Emergency Motion For Sanctions until July 10, 1987.

As a threshold matter, Respondent's Response To Emergency Motion For Sanctions is untimely; hence it is waived. 35 Ill. Adm. Code Sections 105.102, 103.123(c) and 103.140[c] required a response by Respondent no later than June 26, 1987. Not only was Respondent's reply two weeks in excess of the time limitation, but also, the response was so late as to constitute a meaningless afterthought. The purpose of shorter filing deadlines is to accommodate the extremely short time limitations imposed by statute. In this case Respondent's reply was not filed at such time as to constitute a meaningful and timely response to Petitioner's allegations that the failure to comply with the Hearing Officer's order prejudiced Petitioner's case. Respondent's response to Emergency Motion For Sanctions will not be considered.

There is no question that each and every member of the County Board failed to comply with the Hearing Officer's order; first, by rendering answers well past the deadline [including well past the hearing date] and secondly, by failing to explain or justify such failure. It is also noteworthy that Respondent did not appeal the Hearing Officer's decision or seek a modification of same.

The Hearing Officer is a critical participant in proceedings before this Board. It is his or her duty to ensure a fair hearing, to maintain order, to avoid delay and to develop a clear and complete record for this Board. To this end the Hearing Officer has the power and authority to administer oaths, issue subpoenas, require prior submission of testimony and "to issue an order requiring the answering of interrogatories ..." 35 Ill. Adm. Code Section 102.160[g]. In cases such as the one pending [with a statutorily imposed deadline looming] the Hearing Officer's role becomes even more important. In this case, with the statutory deadline fast approaching, the Hearing Officer

imposed a rather tight discovery schedule: He required the County Board Members to respond to certain discovery [already in their possession] by June 12, 1987 -- or to explain and justify a late filing. All Responses were late, some of them almost one month in excess of the Hearing Officer's Order.

Turning now to Petitioner's interrogatories, it is clear that many of the questions contained therein are improper. This Board will not sort through the questions and identify which are improper. It is sufficient to state that a party's probing of the mind of an adjudicator on that adjudicator's deliberation process is improper. Morgan v. U.S. 298 U.S. 468, Seabolt v. Moses, 220 Ark. 242, 247 S.W. 2d 24 (1952). In Ash v. Iroquois County Board, PCB 87-29, July 16, 1987 this board examined this issue and held such probing into the "deliberation process" is improper.

All of Petitioner's discovery questions were not clearly improper. However, the otherwise proper questions and their answers do not warrant a conclusion that the Lake County Board was biased or prejudiced, as asserted by Petitioner.

Accordingly, Motion For Sanctions is denied.

GENERAL INFORMATION

The site of the proposed landfill expansion is on 80 acres located along the east side of Illinois Route #83, approximately one-half mile south of Route #137 in Lake County Illinois. Currently, Petitioner already operates a solid waste, non-hazardous landfill at the site. According to the proposal, the landfill will have a maximum excavated depth of 50 feet, with 80 to 130 feet of impermeable clay lying beneath the landfill. The facility would operate six days per week, with hours of operation 9:00 a.m. to 3:30 p.m. Monday thru Friday and 9:00 to noon on Saturday. The proposed landfill is designed as an inward gradient "below the zone of saturation." The inward gradient will be maintained until final closure by extracting leachate from the bottom of the fill; thus, hydraulic pressures should induce waters to migrate into the fill. Upon closure leachate will no longer be routinely extracted and at some future time the inward gradient will cease. Petitioner claims that the design and proposed operation will serve to prevent leachate leakage.

Under Ill. Rev. Stat 1986 Ch. No. 111 1/2 par. 1039.2 local authorities are to consider six criteria when reviewing an application for site suitability approval for a non hazardous regional pollution control facility.[1] These criteria are as follows:

[1] Ill. Rev. Stat. 1986 ch. No. 111 1/2 par. 1039.2 was recently amended. These amendments do not alter the six criteria as stated above.

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;

2. The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

3. The facility is located so as to minimize incompatibility with the character of the surrounding area and minimize the effect on the value of the surrounding property;

4. The facility is located outside the boundary of the 100 year flood plain as determined by the Illinois Department of Transportation, or the site is flood proofed to meet the standards and requirements of the Illinois Department of Transportation and is approved by that Department;

5. The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents; and

6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.

Ill. Rev. Stat. 1986 ch No. 1/2, par 1040.1 charges this Board with reviewing the County Boards decision; specifically, whether the County Board's decisions concerning each of the six above stated criteria are against the manifest weight of the evidence. City of Rockford v. IPCB, 125 Ill. Adm. 3d 384, 80 Ill. Dec. 650, 465 N.E.2d 996 at 998 [2d Dist. 1984]; Waste Management of Illinois, Inc., v. IPCB, 122 Ill. App. 3d 639, 77 Ill. Dec. 919, 461 N.E.2d 542 [3rd Dist. 1984]. Additionally, this Board must evaluate whether the County Board's procedures, used in reaching its decision, were fundamentally fair. E & E Hauling, Inc. v. IPCB, 116 Ill. App. 3d 586, 71 Ill. Dec. 587, 451 N.E.2d 555, at 527 [2d Dist. 1983].

FUNDAMENTAL FAIRNESS

Ill. Rev. Stat. 1986 ch No. 111 1/2 par. 1040.1 requires that this Board review the proceedings before the County Board to ensure fundamental fairness.

Petitioner claims that the hearing before the County Board was fundamentally unfair owing to the prejudice and bias of individual Board Members. The thrust of petitioner's allegations is that certain County Board Members were predisposed to denying the application. Petitioner asserts that such bias and prejudice renders invalid the County Board decision; providing approval for Petitioner's landfill by operation of law.

In support of this assertion, Petitioner offers a series of newspaper articles and excerpts from County Board deliberations which, it claims, demonstrate the prejudice of several Board Members. The proffered newspaper articles fall neatly into two categories: first, quotations of statements made by Board Members and secondly, articles by newspaper reporters giving the reporters' impressions and interpretations of certain statements made by individual Board Members. The second group will not be considered. In addition to being more than double hearsay the articles merely contain newspaper reporters' impressions of an event, and are neither admissable nor credible concerning the accuracy of those statements.

In reading the direct quotations of County Board Members and transcripts of the Board meeting it is important to note the type of conduct which requires disqualification: The test has been succinctly stated as whether a disinterested observer might fairly conclude that the decision maker had adjudged the facts as well as the law of the case in advance of hearing. Cinderella Career and Finishing Schools, Inc., v. F.T.C., 138 U.S. App. D.C. 152, 425 F 2d 583, 591 [D.C. Cir. 1970]. E & E Hauling, Inc., v. IPCB 116 Ill. app. 3d 586, 71 Ill. Dec. 587, 451 N.E.2d 555 at 565.

Board deliberations occurred after hearing and thus cannot be an adjudication of the facts and law prior to hearing. Additionally, the face of the statements do not demonstrate prejudice. The statements do reflect one Board Member's assessment of what the final vote will conclude and the statements do contain admissions of past voting records; but the statements do not demonstrate that the speakers had prejudged the law and the facts prior to hearing. The fact that certain Board Members admit to voting against another landfill application does not constitute bias or prejudice.

In turning to the newspaper articles containing direct quotations from Messrs Hanson, Reindl, Geary, Beyer, and Graham it should be noted that these quotations are clearly hearsay -- outside any recognized exception. But this hearing was not a trial. And although the rules of evidence provide guidance, hearsay is admissible when relevant, material and would be relied upon by reasonably prudent persons in the conduct of serious affairs. This Board upon considering the quotations from newspaper articles, and the inherent lesser credibility afforded such, does not agree that the speakers have adjudged the law and facts prior to hearing -- except for Mr. Bruce Hanson, who, in a November 27, 1986 newspaper article, was quoted as saying the following:

> "We need to start speaking out. We need to stand up and say, "if eight saints stand on their heads, I still won't vote for a landfill"
>
> and

> "I am deeply saddened that I even have to be here tonight ... to fight off a landfill in our own backyard."

Initially, it should be noted that an official is presumed capable of judging a particular controversy fairly on the basis of the particular circumstances. U.S. v. Morgan (1941) 313 US 409, 421, 61 S. CT. 999, 1004, 85 L. ED. 1429, 1435. And the mere fact that the official has taken a public position or expressed strong views on an issue does not overcome that presumption. CBE v. IPCB 152 Ill. Add. 3d 105, 105 Ill. Dec. 297, 504 N.E.2d 166 at 171 [1st Dist. 1987]. Rather, the presumption of administrative regularity will be overcome only where it is shown by clear and convincing evidence that the official has an unalterably closed mind in critical matters. Association of National Advertisers, Inc. v. F.T.C. (D.C. Cir. 1979) 627 F. 2d 1151at 1170.

Mr. Hanson's statements stand by themselves. According to his own words it would take in excess of eight saints standing on their heads to change his mind on petitioner's application. It is significant that Mr. Hanson's statements were reported on November 27, 1986 -- no more than two months before hearings began. A literal interpretation of Mr. Hanson's statement justifies the interpretation that Mr. Hanson requires celestial witnesses to testify for petitioner. A figurative interpretation of Mr. Hanson's statement is that his mind is clearly made up: He has adjudged the case prior to hearing the evidence. As such, Mr. Hanson is disqualified from hearing this case. And his under oath statements in answers to interrogatories do not undo the damage. The participants and the public have the right to an impartial, fair adjudication and Mr. Hanson is simply not impartial.

The disqualification of Mr. Hanson does not render the County Board's decision invalid. "Disqualification will not be permitted to destroy the only tribunal with power in the premises." E & E Hauling, Inc. v. IPCB, supra, citing Brinkley v. Hassig, 83 F 2d 351, 357 [10th Cir. 1933].

The fact remains that Ill. Rev. Stat. 1986 ch. No. 111 1/2 par. 1039.2(a) provided as follows: "The County Board of the County or the overruling body of the municipality ... shall approve the site location suitability for such ..."

The County Board is, by statute, the only body empowered to render a decision in this matter; and the disqualification of Mr. Hanson does not affect this. Additionally Mr. Hanson was not needed to constitute a quorum nor was his vote critical to the outcome; the final vote was 22 to 1 with one abstention.

In summary, with the disqualification of Mr. Hanson, the hearing was fundamentally fair. Petitioner was afforded a full and fair opportunity to present its case, and the allegations of bias and prejudice are unsubstantiated.

REASONS FOR DECISION

Petitioner claims that the County Board's decision was in error because petition satisfied the six statutory criteria contained in Ch 111 1/2 par. 1039.2. Before this Board, the issue is whether the County Board's decision is contrary to the manifest weight of the evidence. E & E Hauling, Inc., supra; City of Rockford b. IPCB, 125 Ill. App. 3d 384, 80 Ill. Dec. 650, 465 N.E.2d 996 (2d Dist. 1984); Waste Management of Illinois, Inc. v. IPCB, 122 Ill. App. 3d 639, 77 Ill. Dec. 919, 461 N.E.2d 542 [3d Dist. 1984].

Specifically, the standard is as follows:

> "A verdict is ... against the manifest weight of the evidence where it is palpably erroneous, wholly unwarranted, clearly the result of passion or prejudice, or appears to be arbitrary, unreasonable, and not based upon the evidence. A verdict cannot be set aside merely because the jury could have drawn different inferences and conclusions from conflicting testimony or because a reviewing court would have reached a different conclusion ... when considering whether a verdict was contrary to the manifest weight of the evidence, a reviewing court must view the evidence in the light most favorable to the appellee. Steinberg v. Petra, 139 Ill. App. 3d 503, 508 [1986].

Consequently, if after reviewing the record, this Board finds that the County Board could have reasonably arrived at its conclusions, the County Board's decisions must be affirmed. Petitioner claims that each and every one of the County Board's decisions are contrary to the manifest weight of the evidence.

CRITERION NO. 1

Ill. Rev. Stat 1986 Ch no. 111 1/2 par 1039.2(a)(1) requires the County Board to review petitioner's application to ensure that the proposed facility is necessary to accommodate the waste needs of the area it is intended to serve.

Petitioner's first witness was a Mr. John Thorsen, Project Director for a consulting firm retained by petitioner. Thorsen, is an environmental engineer of some 15 years experience, and holds a master's degree in Environmental Resource Planning from Southern Illinois University, in addition to being a registered professional engineer and member of the American Academy of Environmental Engineers. [R. January 19, 1987 pp. 89].

Mr. Thorsen testified that at the present rate, current landfill capacity would be exceeded in 1993 and that current A.R.F. Landfill operations accommodates only 20-30 percent of the total county-generated municipal solid wastes because there are two other landfills in Lake County [R. January 19, 1987 pp. 96].

Thorsen described a two phased plan of development involving a complete recycling waste-to-energy operation. Phase 1 involved the construction of a recycling and materials recovery facility and a landfill disposal unit. It will also include the reservation of 17 acres for the anticipated Phase II development of a third-party operated on-site incinerator unit or alternatively a transfer/feed station to service a future off-site incinerator unit [R. of January 19, 1987 p. 98].

Thorsen testified that the estimated compaction ratio for current operations was 2:1 ; in other words, the volume of refuse is reduced by approximately one-half. This compaction will ultimately result in 1,300 pounds of refuse per yard in the compacted state. [R. January 19, 1987 pp. 114]. But at this rate the current facility capacity will be exhausted by early 1992. [R. January 19, 1987 p. 138]. Notwithstanding this fact or perhaps because of it, the current facility accepted approximately 700,000 gate yards of refuse in 1985. [R. of January 9, 1987 p. 116].

However, Mr. Thorsen also testified that he only used a 15 mile range in his review of the distance waste haulers travel. Thorsen testified that the rule of thumb for travel distance was "driven by the economics and politics of the locality"; and in this case it was "in the neighborhood of 15 to thirty miles." Thorsen also admitted that there are 26 landfill facilities in the Cook County and collar counties but that he did not consider these nor possible Wisconsin facilities when performing his study. [R. January 19, 1987 pp. 115-117].

Objectors' witness in opposition to petitioner's proposal was Robert Luedtke, President of the Village of Hawthorn Woods, and Chairman of the Lake County Joint Action Solid Waste Planning Agency (SWAC). Mr. Luedtke testified that petitioner's application will have a direct impact upon his agency's ability to implement a comprehensive publicly inspired long-range solid waste management plan for the county [R. January 28, 1987 p. 23]. Mr. Luedtke testified that the Lake County Board directed SWAC to identify long-term solutions to manage solid waste recovery in Lake County and to present a plan for solid waste management to the county board [R. January 28, 1987 p. 24]. As a direct result of SWAC's activities, the local Solid Waste Disposal Act (P.A. 84-963) was adopted [R. January 28, 1987 p. 26]. Mr. Luedtke also pointed out that there are at least two private wells within 400 feet of the proposed site. [R. January 28, 1987 p. 83].

Mr. Luedtke stated that in accordance with P.A. 84-1319, which recommends alternatives to land disposal, SWAC developed a plan incorporating alternative methods (including incineration) to land disposal. Mr. Luedtke estimated that it will take 4-5 years to fully implement his agency's plan [R. January 28, 1987 p. 30].

Ultimately, Mr. Luedtke recommended denial of petitioner's proposal in order to give his agency sufficient time to bring their incinerator on-line [R. January 28, 1987 p. 31]. Mr. Luedtke stated that the auxiliary landfill capacity would not become exhausted until 1994-1997, which would afford enough time to complete the incinerator [R. January 28, 1987 p. 44]. However, on cross-examination, Mr. Luedtke admitted that additional landfill capacity was necessary, according to a study performed by his agency [R. January, 1987 p. 44].

This Board is charged with the duty to review the County Board's decision, to ensure that Petitioner's proposal is reasonably necessary to meet the needs of the community, in reviewing this portion of the County Board's decision, it is important to note the meaning of Criterion No. 1. One court has defined "necessary" as meaning expedient or reasonably convenient. E & E Hauling, Inc. v. IPCB, 116 Ill. App. 3d 586 [2nd Dist. 1983]. Another court has required a demonstration that the proposed facility is reasonably required by the waste needs of the area it is intended to serve, taking into consideration such factors as the area's waste production and waste disposal capacity. Waste Management of Illinois, Inc. v. IPCB, 122 Ill. App. 3d 639 [3rd Dist. 1984]. "Necessary," as regards this Criterion is something more than mere convenience . Waste Management of Illinois, Inc. v. IPCB, 123 Ill. App. 3d 1075 [2nd Dist. 1984].

It should be noted that Petitioner used data from the S.W.A.C. county report in attempting to demonstrate that Lake County needs more landfill capacity. But the S.W.A.C. County Report is merely the County's earlier efforts at waste planning; it is not prima facie evidence of a need for more landfill capacity pursuant to Criterion No. 1. Also, the SWAC county report is merely an attempt to locate or dispose or recycle Lake County generated waste in Lake County itself. The Act does not require Petitioner to locate Lake County generated wastes in Lake County. However, Petitioner's witness testified that it was Lake County's disposal capacity he analyzed. [R. January 9, 1987 p. 194].

There is no question that the area eventually will run out of landfill capacity [Petitioner says this will occur in 1993; Objectors say this will occur 1994-1997] -- but this does not exhaust this review. Petitioner's expert, Mr. Thorsen, stated that he used a 15-30 mile travel distance in his analysis. He also stated his awareness of, 26 other landfill facilities in the Cook County and surrounding area -- but these were not utilized

in his analysis. Additionally, it should be noted that the Wisconsin border is only 12 miles away -- but possible landfill capacity in Wisconsin was also ignored in his review. Significantly, Mrs. Josephsen, office manager for petitioner, testified she has received calls from outside areas requesting permission to bring garbage to A.R.F.; and that she was surprized to learn that H.C.D. hauls Round Lake and Antioch garbage to Wisconsin. Even accepting Mr. Thorsen's 15-30 mile rule-of-thumb, Petitioner has failed to examine potentially available landfill capacity in neighboring areas; areas which may provide a solution to the County's disposal needs. The issue before this Board is whether the County Board decision [that Petitioner failed to establish that the proposal was necessary to accommodate the needs of the community] was contrary to the manifest weight of the evidence. Based upon the testimony and evidence it cannot be said that the County Board's decision was mistaken. Therefore, the County Board decision concerning Criterion No. 1 is affirmed.

CRITERION NO. 2

Ill. Rev. Stat. Ch. 111 1/2 par. 1039.2 requires the County Board to review the proposal to ensure that the facility was so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

Petitioner's first expert witness concerning criterion No. 2 was Mr. Edward Need, a senior hydrogeologist and geosciences manager for Roy F. Weston, Inc., Petitioner's retained expert. Mr. Need summarized the regional geology as follows: 80 to 130 feet [downward] of fine-grained glacial deposits which are predominantly till; 80 to 100 feet of silty sands, somewhat interbedded with till, which must be used for domestic water supply. This unit is known as the Glacial Aquifer. Some of the private supply wells within one mile of Petitioner's site utilize this aquifer. Underlying that are zero to 20 feet of fine-grained till, and 50 to 70 feet of dolomite that can be used for domestic and small municipal water supplies. This is known as the Niagaran Aquifer. Most of the public and private water supply wells within one mile of Petitioner's landfill obtain water from the Niagaran Aquifer. 250 feet of shales and agrillaceous dolomites, comprising the Maquoketa Group underlie the Niagaran Aquifer, and 800 feet of sandstones and dolomites [which are available as municipal or industrial water supply] lie beneath that.

Mr. Need testified that soil borings were performed up to 30 feet below the proposed bottom of the landfill. But below this level there was no direct testing results. Additionally undisturbed soil samples were obtained for various geotechnical parameters. The materials were clearly classified as silty clays with moisture content ranging from 16.9 to 17.5 percent. Vertical permeabilities ranged from 6.64×10^{-7} cm/sec to 8.17×10^{-7} cm/sec; which, Mr. Need testified, were very favorable for

minimizing potential leachate migration. [R. January 20, 1987 p. 17]. Using triaxial test apparatus in accordance with US Army Corps of Engineers procedures generated a laboratory coefficient of vertical permeability range from 5 x 10^{-8} cm/sec to 6 x 10^{-9} cm/sec, with the figures being reconcilable owing to a difference in methods. [R. January 20, 1987 p. 19].

Mr Need further testified that non-surface groundwater flow is primarily horizontal; therefore directly influenced by topography. Groundwater in the Niagaran Aquifer flows in a south easterly direction. [R. January 20, 1987 p. 24].

Mr. Need stated that hydraulic gradients at the water table were found to range from 0.011 to 0.008 feet/foot with downward vertical gradient of 0.3 feet/foot in the area between the Niagaran Aquifer and water table system.

Ultimately Mr. Need calculated maximum horizontal flow velocity in a range from 8.3 feet/year. to .16 feet/year. and maximum vertical flow rate [within the Glacial and Niagaran Aquifers] at 0.044 feet/year. [R. January 20, 1987 p. 29]. But he did make a rule of thumb adjustment that horizontal permeability is one or two orders of magnitude greater than vertical permeability. [R. January 20, 1987 p. 154].

Mr. Need testified that a 12-well groundwater monitoring network is proposed consisting of 9 wells in addition to the three already in use. [R. January 20, 1987 p. 33]. But that in any event the leachate collection system will not be operated in the post closure stage. [R. January 20, 1987 p. 51].

Mr. Need admitted that he was unaware that 40,000 people were projected to use and drink water on the 3,500 acres immediately west of Petitioner -- but he did know that there were at least seven private wells within 500 feet of the proposed site. Mr. Need further admitted that leachate migration will only occur, or is only likely during the post closure stage, when the inward gradient is no longer maintained. [R. January 20, 1987].

The existing clays of the landfill would be "re-worked as necessary" to provide a clay liner. [R. January 20, 1987 p. 209]. And the existence of large vertical cracks extending to the sand aquifer is extremely unlikely. [R. January 20, 1987 p. 231].

Mr Need testified that lateral migration of leachate is calculated at 16 feet in 100 years -- but the effect of the sand seams might double that figure to 32 feet in 100 years. [R. January 20, 1987 p. 238]. Notwithstanding, Mr. Need asserted that the landfill had been engineered to minimize the likelihood of leachate migration; [R. January 20, 1987 p. 31] and there is virtually no hazard to the public health, safety or welfare from leachate migration. [R. January 20, 1987 p. 33]. In support of

this conclusion Mr. Need noted that there was no leachate in monitoring wells as of that date. [R. January 29, 1987 p. 16]. Assuming a worst case scenario, Mr. Need claimed it would take 600 years for the landfill to leach. [R. January 20, 1987 p. 31].

Petitioner's second witness on Criteria No. 2 was Mr. John Thorsen; [the same Mr. Thorsen identified supra concerning Criteria No. 1]. Mr. Thorsen stated that petitioner was not, at this time, seeking approval for its proposed incinerator, -- but the 17 acres will be available free of charge [to the County] if the County decided to incinerate solid waste in the future [R. January 21, 1987 p. 130]. Mr. Thorsen explained that petitioner intends a two phase approach. Phase No. 1 development would involve construction of recycling and materials recovery facility and landfill disposal unit. Phase No. 1 also included reservation of land areas designated for future Phase No. 2 development of third party operated, on-site incinerator unit or a waste processing and transfer feed station to service off-site incinerator units. Phase No. 2 development would also include additional landfill disposal capacity. [R. July 21, 1987 p. 139]. The Phase No. 2 expansion was intended to comport with the S.W.A.C. county report.

Mr. Thorsen further testified that the system is designed to intercept percolating leachates from the landfill and collect these liquids in a perforated piping network, with the pipes placed at a one percent slope toward the collection and removal point. [R. January 21, 1987 p. 155]. The removal point is a reinforced-concrete manhole which will facilitate collection, temporary storage and removal of leachate [R. January 21, 1987 p. 176]. He acknowledged that sanitary sewers are usually designed at 2% slope. [R. January 21, 1987 p. 176].

Mr. Thorsen stated that leachate collection and removal system will be designed and constructed to reduce the hydraulic pressures within the cells; thereby minimizing the possibility of leachate migration beyond the liner containment system. [R. January 21, 1987 p. 158]. Each cell will be closed upon exhaustion of its capacity [R. January 21, 1987 p. 239] with a moist daily cover consisting of soils excavated from each trench [R. January 21, 1987 p. 171]. Continued monitoring of the closed landifll would be for three or five years. [R. January 21, 1987 p. 179]. Mr. Thorsen also stated that surface water diversion structures have been designed to divert storm water so as to minimize erosion of soils while minimizing impact on downstream and adjacent properties. [R. January 21, 1987 p. 169].

On January 22, 1987 Mr. Thorsen returned and testified that there was no need for a 24 hour guard at the facility, that a 100 foot buffer would be placed between the land and the edge of the property, plus a 10 foot berm would be used to block roadway view of the landfill. [R. January 22, 1987 p. 94], Mr. Thorsen also testified that gas vents would be utilized up to a depth of 35

feet. These vents [with dimensions of 12-24" in diameter, [R. January 22, 1987 p. 246] should eliminate noxious odors. We note that the current fill, in which odors have been detected, does not use such a gas vent operation. [R. February 22, 1987 p. 41].

Mr Thorsen testified that he did not consider whether certain proposed post closure procedures would deprive nearby farmers of a water supply for cattle. [R. January 22, 1987 p. 117]. The closure operations referenced above include mainly monitoring and maintenance. This means quarterly well samples [R. February 22, 1987 p. 122] will be taken -- but once the leachate pipe is capped it will take 20-100 years for leachate to reach the water table. [R. January 23, 1987 p. 64].

The next witness for petitioner was Dr. Robert Schoenberger, Vice President for Solid and Hazardous Waste for Petitioner's consultant. Dr. Schoenberger has a bachelor's degree in Civil Engineering, master's degrees in Environmental Engineering and Geotechnical Engineering and a Ph.D. in Chemical Engineering, all from Drexel University. Dr. Schoenberger was a consultant to the U.S. Public Health Service and on the Governor's solid waste advisory committee from Pennsylvania. Additionally, Dr. Schoenberger testified that he has published 40 or 50 scientific papers in trade journals [R. January 23, 1987 p. 140].

Dr. Schoenberger further stated that the site characteristics, design and proposed operation meets currently accepted standards, [R. January 23, 1987 p. 155] and the proposed plan does protect the public health, safety and welfare. [R. January 23, 1987 p. 161]. Additionally Dr. Schoenberger testified that upon his review of the site characteristics design and proposed operation the proposed site does minimize incompatibility with the surrounding area [R. January 23, 1987 p. 162].

Objectors produced Mr. Brandon Koltz, who holds a masters degree from the University of Iowa in environmental engineering. Mr. Koltz has attended some courses on sanitary landfill design, and has participated in water pollution management projects. Currently, he is an environmental engineer with Graef, Anhalt, Schloemer & Associates. Mr. Koltz stated that his firm was retained by the Lake County Joint Action Solid Waste Agency (SWAC) to review petitioner's application [R. January 28, 1987 pp. 65-68].

In characterizing the area, Mr. Koltz testified as follows:

> "The upper zone...is characterized as weathered material, the potential for some water flow following the contours of topography. Below that type, clay with permeability of $1x10^{-7}$ or less, very limited vertical movement of water...beneath that also glacial material is a sand and gravel layer, silty sand, sand and gravel. This is used

> as an aquifer...beneath that, the regional geology suggests...there may be a very thin clay layer carrying dolomitic rock in some places...this, in turn, lies over the top of maquoketa shale, which is a relatively impermeable layer, and below that is cambrian - ordovician aquifer limestone and sandstones. The characteristics here, the permeability, is very low in this clay. [R. January 28, 1987 pp. 76-77]

Mr. Koltz stated that certain monitoring wells used and proposed by petitioner cannot detect the level of the water supply aquifer, which is just below the landfill [R. January 28, 1987 p. 80]. Mr. Koltz indicated that the direction of water flow is from west to east; and that Area No. 4 of the proposed site would be located within 250 feet of one citizen's well and within 400 feet of another. He further stated that there were no monitoring wells proposed as an early warning system for these individuals [R. January 28, 1987 p. 83].

Ultimately, Mr. Koltz concluded as follows:

> Because of the questions and issues raised in our review, we believe that the hydrogeology of the site has not been sufficiently characterized in order for the application to be appraised...more data is needed in the area of groundwater levels and movement in this area [R. January 28, 1987 p. 87].

Additionally, after highlighting the importance of a leachate collective system, Mr. Koltz concluded: "we...analysed the leachate collection system, we found it to be somewhat inadequate" [R. January 28, 1987 p. 89]. Mr. Koltz criticized the leachate collection system as only 12 percent efficient. Mr. Koltz also criticized certain design deficiencies. Specifically Mr. Koltz criticized the grainular blankets intended to be used; he criticized the distance between leachate collection pipes and he criticized the proposed method of closure. [R. January 28, 1987 p. 90]. Mr. Koltz also criticized the report's failure to fully characterize the proposed liner, specifically, he stated "there's no depth or width stated" [R. January 28, 1987 p. 91]. Ultimately, he recommended that the specifications include a 3-foot bottom liner.

Additionally, he stated as follows:

> "An important part of any -- of this type of construction is that an inspection be done. It's not enough just to have the specifications there, but a professional inspection should be included as part of the construction activities. This was not done in the application" [R. January 28, 1987 p. 93]

Mr. Koltz also criticized the plan for failing to include gas monitoring [R. January 28, 1987 p. 94].

Next, objectors produced Dr. James Tracy, who holds a Ph.D. in civil and geological engineering. Dr. Tracy stated that he has studied or worked in various areas including groundwater hydrogeology, facility designs, general water supply, contamination studies and permitting requirements under the Resource Conservation and Recovery Act (RCRA). Dr. Tracy stated that he has authored numerous publications in this area. Specifically, in this case, Dr. Tracy testified that he was a consultant asked to review petitioner's application to determine the adequacy of the hydrogologic characterization and monitoring plan [R. January 28, 1987 p. 32]. Dr. Tracy did not, himself, perform any borings, or other tests (p. 32); rather, he reviewed the application and its supporting documentation [R. February 2, 1987 p. 33]. He did, however, have the opportunity to hear petitioner's experts testify.

In stating the results of his review [of petitioner's documents relative to regional hydrogeology, geology and stratiography], Dr. Tracy stated "for the purposes of the application I reviewed ,in general that what they submitted is adequate" [R. February 2, 1987 p. 34]. Dr. Tracy was, nonetheless, somewhat critical. Dr. Tracy went on to identify certain "shortcomings" in the regional data, specifically, limited site description, lack of hydrogeologic data, lack of data concerning collection wells, lack of pump tests, lack of slug tests and lack of "in-the-field permeability tests" [R. February 2, 1987 p. 36]. Additionally, Dr. Tracy criticized petitioner's data relative to zones of saturation or non-saturation [R. February 2, 1987 p. 40]. Dr. Tracy testified that rather than the data provided, petitioner should have completed more soil borings and actually completed some monitoring wells or piezometers within the upper fractured till because of its importance as a hydrogeologic unit [R. February 2, 1987 p. 42].

Ultimately, Dr. Tracy concluded that the amount of monitoring wells is inadequate given the complexity of the site conditions: "Three wells are only adequate if there is no vertical component - component of gradient or if they are all completed at the same elevation. Additionally, owing to lack of reliable data, the direction and magnitude of the groundwater gradient and flow cannot be accurately assessed." Dr. Tracy also stated that it would have been proper and customary for field tests on horizontal permeability and laboratory tests of the boring samples to have been done -- but such was not the case [R. February 2, 1987 pp. 47 & 48].

Additionally, Dr. Tract criticized petitioner's calculation of horizontal water velocity. Dr. Tracy stated as follows:

> "So if anything, I believe that the gradient as determined by the applicant is underestimated because it averages gradients, vertical gradients that cross a lowly permeable till and a much more permeable basal sand and dolomite, so that what we have is an average gradient that is lower than what may exist across the till itself" [R. February 2, 1987 p. 54].

Thus, Dr. Tracy concluded, the migration of water would be greater. [R. February 2, 1987 p. 54].

Dr. Tracy also criticized petitioner's identifying a shallow water table at or about 30 feet below the surface. "The water table that they are talking about is what they have called the 'true water table'. I don't believe that that is the case...I believe...the depth would not be 30 feet but it would be between 2 and 20 feet, as indicated by these water levels in the boring" [R. February 2, 1987 p. 63].

In summary, Dr. Tracy testified as follows:

> I just don't believe that sufficient groundwater data, hydrology data, was collected...to thoroughly characterize this site; and therefore, any conclusions regarding the placement of monitoring well and regarding the direction and rate of flow is relatively speculative. [R. February 2, 1987 p. 66].

On cross-examination, Dr. Tracy testified that the proposal did utilize an inward gradient "for a transient period of time" [R. February 2, 1987 p. 87]. Additionally, when directly asked whether the facility was designed, located and proposed to protect the public health, safety and welfare, Dr. Tracy's answer was "I wouldn't feel that I would have adequate information to draw that conclusion" [R. February 2, 1987 p. 125].

Next, Objectors called Mr. George Noble to testify. Mr. Noble is an environmental consultant and president of Noble and Associates, Inc. Mr. Noble has a master's degree in civil engineering and has performed post-graduate work in land use planning. He is a registered professional engineer in Illinois, Pennsylvania, the United Kingdom and European Council of Engineers. Mr. Noble testified that his principal area of expertise is sanitary landfill design. [R. February 2, 1987 p. 219].

Mr. Noble identified his concerns as follows: "I have two major problems with the landfill design as it impacts the maintenance of surface water level inside the landfill. One is during operation, and the other is after closure." [R. February 2, 1987 p. 224]. Mr. Noble criticized Petitioner's leachate collection system: "It would be common to design a manhole that

had a sufficient accommodation, sufficient room to allow a two-man crew to get down inside the manhole and to rod out the leachate collection system in the event there were any plugging of the system. It's apparent to me from review of the plan that there is insufficient room to clear the leachate collection system in any potential clogging." [R. February 2, 1987 p. 225]. Mr. Noble stated that a better plan would have provided for an alternative means for leachate to flow into the collection system. Mr. Noble also recommended a "dedicated leachate pump" so leachate could be collected in foul weather. [R. February 2, 1987 p. 226]. Additionally, the 1% slope of leachate collection pipes was criticized. It was asserted that a greater slope would provide a self cleansing attribute to the system. [R. February 2, 1987 p. 227, R. February 3, 1987 p. 36]. Mr. Noble criticized both the operational design and the post closure design. [R. February 2, 1987 p. 229].

Mr. Noble also criticized Petitioner's proposed landfill liner. Mr. Noble testified that with one minor exception, the application did not identify any type of liner for the proposed landfill. Another factor that concerned Mr. Noble was the apparent lack of description or identification of a plan to remove incident rainfall inside the trench prior to closure. [R. February 3, 1987 p. 17, 19 and 113]. It should be noted that Mr. Noble admitted that he was not reviewing final engineering plans. His review was of permit application designs, which are not the same thing as final engineering plans. [R. February 3, 1987 p. 42]; but he also stated that he did not feel final engineering drawings were necessary to calculate the quality of the design [R. February 3, 1987 p. 120].

Finally, Mr. Noble criticized the hours of operation of the future recycling center stating that the hours of operation should be longer. [R. February 3, 1987 p. 71]. Mr. Noble concluded by testifying that petitioner's landfill design was not a good design. [R. February 3, 1987 p. 22].

Objectors next called Mr. Ronald Riepe. Mr. Riepe is a professor of Geology at College of Lake County. Mr. Riepe holds Bachelor's and Master's degrees in Geology with work toward a Ph.D. Mr. Riepe identified Lake County as being host to an abundance of moraines [a ridge which accumulates along a margin of glacial ice]; and characterized the proposed site as 90% wetland [R. February 3, 1987 p. 177]. Mr. Riepe identified the scope of his review as those parts relating to geology and hydrogeology [R. February 3, 1987 p. 222).

Mr. Riepe stated that the proposed site is located in areas of "poor or very poor drainage; [R. February 3, 1987 p. 217], with 133 private wells within a 3 mile radius. [R. February 4, 1987 p. 100] Mr. Riepe related his fears concerning the danger of infiltration into the aquifers." [R. February 3, 1987 p. 219]. Mr. Riepe also characterized the direction of water flow as from east to west. [R. February 3, 1987 p. 37].

Mr. Riepe criticized petitioner's application as utilizing an insufficient amount of well borings. [R. February 3, 1987 p. 47]. Mr. Riepe stated he would be more comfortable with twice as many boring samples, to examine the diverse vertical and horizontal characteristics of the moraine. [R. February 3, 1987 p. 65]. He also stated that it was this diverse character of the moraine which gave rise to the need for field testing, as opposed to only lab tests. [R. February 3, 1987 p. 94].

In conclusion, notwithstanding the fact that Mr. Riepe had not heard all the testimony at hearing, he testified " that the proposed expansion was a bad idea" [R. February 4, 1987 p. 76]. Specifically Mr. Riepe stated as follows: "I think --- that the way the A.R.F. application addresses the water issue missed by a wide mark." [R. February 4, 1987 p. 87].

Objectors next called Mr. Jerome Chudzik, an engineer registered in both Illinois and Wisconsin. Mr. Chudzik holds a bachelor's degree in civil engineering and has attended various engineering seminars in solid waste landfill siting and design.

Mr. Chudzik noted that the area of the proposed landfill was currently zoned to allow landfills and was an area not intended for future sewer and water services. [R. February 5, 1987 p. 145].

In reviewing the recycling facility, Mr. Chudzik noted several positive features of the proposal (including public participation and the fact that scavenging would not be allowed). However, Mr. Chudzik noted three negative aspects, including lack of evidence relative to any interference with current operations; inadequate traffic signs and insufficient hours of operation. [R. February 5, 1987 p. 151].

In reviewing landfill construction Mr. Chudzik again noted several positive and several negative aspects. Positive aspects included the use of excavated clays in the construction and filling processes, use of proper heavy equipment and use of adequate refuse compaction. However, negative aspects included insufficient data regarding stockpile locations, failure to remove 25% of the cover on a daily basis and placement of a geotextile filter fabric over the leachate trench. Mr. Chudzik's concern was that the use of heavy equipment might damage the filter fabric.

In reviewing post closure operations Mr. Chudzik found several favorable aspects, including plans to maintain a trust fund for post-closure care; compatibility between the construction and closure phases; use of final grading and landscaping. negative aspects included a final closure plan that required plugging of the manhole port [Mr. Chudzik felt that the system should not be closed; thereby allowing for leachate monitoring after closure]; failure to require certification by a registered engineer of each stage of the closure plan; failure to

address long-term ownership questions and failure to identify the purchase or lack of environmental impairment liability insurance. [R. February 5, 1987 p. 174].

Regarding the questions of health, safety and welfare, Mr. Chudzik concluded that the proposal failed to meet this criterion. [R. February 5, 1987 p. 176].

Objectors next called Dr. Louis Marchi, a chemist. Dr. Marchi's specialty is in the field of inorganic chemistry, from which he retired in 1980. [R. February 4, 1987].

Dr. Marchi noted the differences between the way a geologist and chemist defines clay [geologist looks to particle size, versus a chemist who looks at chemical composition]. Dr. Marchi stated that a chemist views clay as complex calcium aluminosilicate. Dr. Marchi further stated that he would expect to find certain toxic metals in a non-hazardous, solid waste landfill because of common consumer products like lead batteries, tin cans and plumbing products. [R. February 4, 1987 p. 226].

Dr. Marchi testified that these chemicals [in addition to expected acid rain] will interact with the proposed clay liner and may affect stated permeabilities. [R. February 4, 1987 p. 250]. Dr. Marchi was also critical of the "small number" of soil borings conducted. Dr. Marchi characterized the placement of testing bores as "haphazard" as opposed to scientifically sound, random samples [R. February 4, 1987 p. 231]. Dr. Marchi stated that data derived from the small number of samples was not necessarily accurate, [R. February 5, 1987 p. 16] and further stated that he disagreed with petitioner's stated permeability calculations.

On cross examination Dr. Marchi testified that he never designed a landfill, nor had he ever conducted a permeability test nor had he ever seen a permeability test performed. [R. February 5, 1987 p. 23]. Dr. Marchi also clarified his use of the term "haphazard"; explaining that "haphazard" was used only to distinguish the data from scientific random samples. [R. February 5, 1987 p. 36] -- although from a statistical perspective, haphazard testing renders results invalid. [R. February 5, 1987 p. 62]. In reaching his conclusions, Dr. Marchi acknowledged that he did not agree with the concept of attenuation. Dr. Marchi declined to acknowledge that his view was contrary to those of a vast majority of scientists. [R. February 5, 1987 p.44].

The Act requires this Board to review the decisions of the County Board to ensure that the proposal is designed, located and proposed to be operated to protect the public health, safety and welfare. The County Board held that Petitioner had failed to demonstrate compliance with this criterion.

As demonstrated above, both sides introduced a significant amount of testimony concerning the geology, design and operation of the proposed landfill. Objectors complained that Petitioner provided insufficient data; failed to propose gas vents and did not adequately address the possibility of potential sand lenses.

Petitioner's proposal did not plan to rework the bottom layer of the landfill. Instead, Petitioner planned to rework the clay liners only "as needed". Petitioner stated, however, that it would use heavy equipment to compress the bottom layer, in place, into a highly dense clay liner. But the fact remains that based upon the data provided, no one knows the exact composition of that bottom clay layer. Petitioner fails to address important questions concerning the integrity of that bottom layer. If the bottom layer were extracted, recompacted and then replaced, the integrity is assured because any sand lenses or other undesirable components can be eliminated. But this is not the proposal. Petitioner's proposal would merely use heavy equipment to compress whatever materials currently exists into a tighter layer of the same materials. In this case the integrity of the bottom clay barrier is unknown because the nature of the materials is relatively unknown.

The issue before this Board is whether the County Board's decision [that Petitioner failed to demonstrate compliance with Criterion No. 2] was contrary to the manifest weight of the evidence. Based upon the evidence presented and inlight of the forgoing we cannot say that Petitioner's proposal, was clearly designed, located and proposed to be operated such that the public health safety and welfare is protected. For this reason we affirm the County Board relative to Criterion No. 2.

CRITERION NO. 3

Ill. Rev. Stat. ch 111 1/2 par. 1039.2 requires local county boards to examine the proposal to ensure that the facility is located so as to minimize incompatibility with the surrounding area and to minimize the effect on the value of surrounding property.

Dr. Schoenberger, identified above in Criteria No. 2, stated that the facility does minimize any incompatibilities with the surrounding area. [R. January 23, 1987 p. 162]. However, when asked about any investigations conducted, he stated "I observed the operations, I observed the landfill and the location of the road system and some of the houses in the proximity of the landfill." [R. January 23, 1987 p. 190]. He further testified that the site is located away from major population areas, in a fairly sparsely developed area. "... there are some commercial establishments in that area, but now you are getting to be a substantial distance from the landfill." [R. January 27, 1987 p. 195].

Petitioner then called Mr. John Whitney, of Valtec Associates, Schaumburg, Illinois. Mr. Whitney is vice president for real estate evaluations for that firm. Mr. Whitney was previously vice president of real estate appraisals for Mid-American Appraisal and Research, and a M.A.I. by the American Institute of Real Estate Appraisers. He has appraised most types of real estate. [R. January 29, 1987 p. 10].

Mr. Whitney testified that he conducted a review of the proposal and potential effects or impact of the proposal on surrounding property values. In so doing he inspected the facility, the surrounding area, appraised several homes in the vicinity and has analyzed recent property sales in the area. Mr. Whitney stated that he discussed the proposal, including physical dimensions and operations, with A.R.F. personnel. [R. January 29, 1987 p. 102].

In concluding Mr. Whitney testified as follows: "My opinion is that the expansion of the existing landfill will have a minimal effect on properties to the north, to the west and to the south of the subject, and will impact properties to the east." [R. January 29, 1987 p. 103]. He further testified as follows: "Based upon the configuration of the property with the setbacks, the berming, and the landscaping, it's my opinion that impact on these properties will be minimized [R. January 29, 1987 p. 104]. "Minimal", is later defined as a 0-5% change in value [R. January 29, 1987 p. 135].

However, Mr. Whitney testified that he was only on the site for approximately 2 hours in January of 1987; [R. January 29, 1987 p. 106], and this was his only visit. Mr. Whitney also admitted that closure of the existing facility might increase nearby land values [R. January 29, 1987 p. 107]. Significantly, Mr. Whitney initially testified that all of the opinions he rendered were based upon the fact that there was an existing landfill, currently on site. [R. January 29, 1987 p. 114, p. 122]. Mr. Whitney also stated that his analysis did not consider the ability of landlords to rent nearby properties. [R. January 29, 1987 p. 137]. Mr. Whitney also admitted that he was operating on the assumption [as stated to him by Petitioner's engineers] that there would be no contamination from the landfill. [R. January 29, 1987 p. 140]. Mr. Whitney further stated that the facility would be visible along Routes # 137 and #83 at ground levels [R. January 29, 1987 p. 36, p. 39],

On cross examination regarding Petitioner's Exhibit #47 [which identifies nearby property sales from 1980] Mr. Whitney explained that even though 30 properties were included in the report, only 17 sales were deemed relevant and of these sales, several involved Petitioner.

In summary Mr. Whitney stated that neighboring industrial properties would not be affected by the facility's presence [R. January 30, 1987 p. 68]; that his assessment would be the same

even if he had detected odors [R. January 30, 1987 p. 70]; that noise was a minimal factor [R. January 30, 1987 p. 73]; and that his conclusion would be the same even without the current existence of the landfill.

Objectors then introduced Mr. Thomas J. Peters, a Real Estate Appraiser. Mr. Peters stated that he holds an M.A.I. Designation [from the Society of Real Estate Appraisers], he is a licensed real estate broker and a member of the McHenry County, State of Illinois and National Board of Realtors. Mr. Peters testified that he has 26 years of experience in the field. [R. February 2, 1987 p. 141].

Mr. Peters stated that he conducted no independent study and did not perform an independent evaluation of the impact the proposed facility might have. Basically, he simply listened to the testimony, before the County Board and reviewed the application to determine whether or not adequate proof had been offered to make an intelligent decision relative to criterion No. 3. [R. February 2, 1987 p. 144].

Mr. Peters criticized Petitioners for failing to clearly define the surrounding area of the proposed landfill, stating that he felt that a mile and a half was the approximate distance for this -- especially since a mile and a half is the "statutory distance for zoning work" [R. February 2, 1987 p. 165]. Because of that stated failure, Mr. Peters identified the following reservations: What is the area to be affected? Are single family residences included? Developed areas? Agricultural areas?

Then Mr. Peters criticized petitioner for failing to determine relative values within the area; ultimately concluding that utilizing the data provided by Petitioner's expert [Mr. Whitney] he could in no possible way reach the conclusions that he [Mr. Whitney) previously stated. [R. February 2, 1987 p. 154]. Mr. Peters testified that the proper methodology is to determine the value of the surrounding property before deciding whether the proposal minimizes impact on the surrounding property. [R. February 2, 1987 p. 171]. Ultimately, Mr. Peters testified that the facility fails criterion No. 3 "because it's in the wrong location." [R. February 2, 1987 p. 179].

Finally Mr. Peters criticized Petitioner's property study because it included sales of nearby property involving Petitioner as a party; Mr. Peters stated that such was "... unreasonable, I mean I can't believe anybody would do such a thing." [R. February 2, 1987 p. 210].

Objectors next called Charles Titus, a nearby resident, who testified that each year it takes longer for his fields to dry out; [R. February 5, 19087 p. 125] and certain foul odors were coming from the existing site [R. February 5, 1987 p. 135]. On cross examination. Mr. Titus admitted that he never filed any

complaint against Petitioner; notwithstanding the above stated complaints.

Objectors also called Mr. William Alter, a nearby land developer. Mr. Alter agreed that the roads were unduly slippery when wet, owing to "elements" caused by the various trucks using Petitioner's facility. Mr. Alter also complained about garbage flying off trucks and the "substantial volume of trucks." [R. February 6, 1987 p. 20].

In relating the above to its adverse effect upon his property Mr. Alter stated as follows: "The traffic going to and from that landfill with the garbage flying and the mud and everything else flying, I find very offensive and I think it's very detrimental to the value of the real estate." however, Mr. Alter admitted that in his opinion a negative impact is indigenous to a landfill operation. [R. February 6, 1987 p. 77]].

Next Objectors called Neil King, a real estate appraiser, to testify in support of the proposal's alleged negative impact on Mr. Alter's nearby property. Mr. King holds a S.R.E.A., [Senior Real Estate Analyst] designation and has approximately 30 years experience. [R. February 6, 1987 p. 86]. Mr. King also holds a bachelor's degree in civil engineering.

Mr. King testified that placement of a landfill adjacent to or in an area that was planned for development, is the least acceptable alternative. [R. February 6, 1987 p. 94]. In describing the impact of the proposal on Mr. Alter's property, Mr. King noted that Mr. Alter's property is "sort of surrounded" on three sides by approaching land developments. He also testified that the existence of foul odors and seagulls was significant in his analysis [R. February 6, 1987 p. 120].

Mr. King testified that the zone of influence from the proposal would definitely impact Mr. Alter's property. [R. February 6, 1987 p. 99]. Mr. King was critical of Petitioner's appraiser analysis, stating that the use of property purchased by A.R.F. and under contract to Waste Management was not a valid evaluation. [R. February 6, 1987 p. 100].

Significantly, Mr. King stated that the basis of his assessment was that there was <u>not</u> an existing landfill at the site. Also, Mr. King admitted that the proposed Waste Management site would have a greater adverse impact than Petitioner's proposal.

In reviewing this portion, this Board must decide whether the County Board's decision regarding Criterion No. 3 was contrary to the evidence. The County Board held that Petitioner failed to demonstrate that the facility is located to minimize incompatibility with the surrounding area and minimize effects on surrounding property values.

It should be noted that the statute does not require an applicant to demonstrate that the proposed use is the highest and best use. The statute requires an applicant to show that its proposal minimizes incompatibility and effects on surrounding property values. Section 39.2 (g) of the Act specifically excludes local zoning, land use plans or requirements from consideration in these cases. There was no testimony that a landfill was not a proper use for the area intended. Significantly, Petitioner's expert witnesses explained that the proposed sites are located away from major population areas, in a fairly sparsely developed area, with some commercial establishments in the area -- but only at a substantial distance from the landfill. [Testimony January 27, 1987 p. 195]. A landfill could reasonably be located in such an area.

This Board must also review the proposal relative to its minimizing of effects on nearby property values. Mr. Whitney, Petitioner's witness on Criterion No. 3 conducted a thorough analysis of the area and potential impact on nearby property values. Mr. Whitney's analysis [which considered proposed landscaping factors, setbacks, and visual and vegetation berms] concluded that there would be minimal effect on properties to the north, west and south. Criterion No. 3 calls for the facility to be located so as to 'minimize' incompatibility -- but does not allow for rejection simply because there might be some reduction in value. Watts Trucking Service, Inc., v. City of Rock Island, PCB 83-167. Although Objectors produced Mr. Peters, to criticize Mr. Whitney's report, it should be noted that Mr. Peters did not conduct his own analysis, he merely reviewed Mr. Whitney's testimony and criticized it.

More is required of an applicant than a de minimus effort at minimizing the facility's impact. An applicant must demonstrate that it has done or will do what is reasonably feasible to minimize incompatibility. Waste Management of Illinois, Inc. v. IPCB, 123 Ill. App. 3d 1075, 1090 [2nd Dist. 1984]. Criterion No. 3 calls for a proposal to minimize its effects -- but does not allow for rejection simply because there might be some consequential reduction in value. Petitioner, via its plans to install screening berms, utilize setbacks and landscape around the area, does indeed minimize any impacts to be expected in the area. The County Board's decision [that Petitioner failed to demonstrate compliance with Criterion No. 3] is contrary to the manifest weight of the evidence and is, therefore, reversed.

CRITERION NO. 4

Ill Rev. Stat. 1986 ch no. 111 1/2 par. 1039.2 requires the County Board to review the proposal to ensure that the facility is located outside the 100 year floodplain, or the proposal includes water proofing to meet the standards and requirements of the I.D.C.T. and is approved by that department.

Petitioner's first witness concerning this criteria was Mr. Gary Diegan, Lead Project Engineer for A.R.F. Mr. Diegan's job responsibilities included concept planning and engineering design and he testified that he was very familiar with the facility's operations and the site's characteristics. Mr. Diegan stated that the proposal incorporated recognized engineering practices to minimize the potential for increased flooding, surface water quality degradation, or undue soil erosion; [R. January 26, 1987 p. 12] and the facility was designed for the 100 year flood."

Mr. Diegan testified that the Illinois Department of Transportation was contacted and has confirmed, by signed affidavit that siting of the proposed facility is approved by that Department. [R. January 26, 1987 p. 14]. Supporting correspondence is Petitioner's Exhibit #29. Mr. Diegan also testified that petitioner had provided data concerning the feasibility of floodproofing provisions and over-all storm water movement [R. January 26, 1987 p. 13].

Mr. Diegan further testified that a constructed stormwater management basis will be utilized on area #3 to provide compensatory floodwater storage, resulting in a capacity of 500,000 cubic feet. [R. January 26, 1987 p. 19]. The technical sources of Mr. Diegan's report were the Illinois State Water Survey; the Federal Emergency Management Agency and the Illinois Department of Transportation. Ultimately Mr. Diegan related the dimensions and interconnections of the designs, currents and tributary channels. [R. January 26, 1987 p. 47]. In summary, the proposed floodproofing was intended to accommodate a 10 year, 24 hour flood, [R. January 26, 1987 p. 47] which he stated, was typically suitable for this design. He did admit, however, that the 10 year, 24 hour storm was calculated to generate only 3.9 inches of precipitation. [R. January 26, 1987 p. 70]. Mr. Diegan also testified that a 25 year and 50 year, 24 hour storms generated only 4.2 inches and approximately 5 inches, respectively. Any difference between the two is small.

Mr. Diegan offered further testimony regarding storm water runoff and storm water basin. Mr. Diegan testified that he performed runoff calculations using the Soil Conservation Service TR-55 method for each land area, as well as the other land areas that could contribute runoff to each of those areas. On cross examination regarding the plans and methodology of storm water collection, drainage and runoff Mr. Diegan calculated the trench volume at 220,370 cubic yards. Mr. Diegan claims that the calculations utilized the best available floodplain information [R. January 27, 1987 p. 78] and he, personally, observed the site. [R. January 27, 1987 p. 82]. Ultimately, he concludes that the future "rate of flow-off would be approximately the same as now." It should be noted that this conclusion assumed the current existence of the present facility -- and did not consider the property in an undisturbed state. [R. January 27, 1987 p. 166].

Mr. Diegan stated that there was no peat beyond the top soil layers in area 2 & 4 as confirmed by 28 soil borings. [R. January 27, 1987 p. 155].

Objectors produced Mr. Robert Mosteller, Deputy Director of Lake County Department of Planning, Zoning and Environmental Quality. Mr. Mosteller testified in opposition to petitioner's application. Mr. Mosteller testified that he was in charge of advanced planning and current planning sections of the department, including a storm drainage study of the entire county. Mr. Mosteller holds a master's degree in city and regional planning from Rutgers University and is a member of the American Planning Association, state and federal chapters. [R. February 2, 1987 p. 10]. Mr. Mosteller testified that the proposed site falls within a floodplain [R. February 2, 1987 p. 12].

Mr. Mosteller explained his concerns regarding the facility. He stated that his main concern was that any construction that occurs within a floodplain must consider "compensatory storage" to avoid additional flooding to other areas [R. February 2, 1987 p. 16]; but on cross-examination, Mr. Mosteller admitted that he could not testify that the proposal failed to provide adequate compensatory storage [R. February 2, 1987].

The Act requires this Board to review the County Board decision to ensure that the decision is not contrary to the manifest weight of the evidence.

The Act requires applicants to locate their proposed landfill outside the 100 year floodplain as determined by the Illinois Department of Transportation, or the site must be floodproofed to meet the standards and requirements of that Department and the proposal is approved by that Department. At hearing, Petitioner introduced its Exhibit No. 29, as approval by the Illinois Department of Transportation that Petitioner's proposed site was outside the 100 year floodplain. The Board notes that in the past it has experienced difficulty with this Criterion because the Illinois Department of Transportation does not have floodproofing standards for this type of facility. However in this case there was extensive testimony regarding Petitioner's floodproofing plans and the County Board may properly may have considered this data pursuant to Criterion No. 2. Based upon Board precedent and the contents of Petitioner's Exhibit No. 29, Criterion No. 4 has been satisfied. Board of Trustees of Casner Township et al. v. Jefferson County, et al., PCB 84-175. This decision of the County Board [that Petitioner failed to meet Criterion No. 4] is clearly against the manifest weight of the evidence and therefore reversed.

CRITERION NO. 5

Ill. Rev. Stat. 1986 ch No. 11 1/2 par. 1039.2 requires local county boards to review the plan of operation to ensure a minimizing of dangers from fire, spills or other operational accidents.

Dr. Schoenberger, identified supra, testified that in his opinion dangers from fire, spills and accidents were minimized. "I base it [the opinion] on the fact that the waste coming in will be controlled, there will be no liquids and no hazardous waste, these are generally the source of two of the biggest problems. -- although inevitably there will be some." [R. January 23, 1987 p. 251]. With respect to other catastrophes --- those are controlled through proper operation and design including leachate collection, proper daily cover, compaction of refuse; control of traffic. And all those elements have been factored into the design and application. [R. January 23, 1987 p. 166]. Furthermore Dr. Schoenberger characterized Petitioner's proposal as a "wet landfill" as opposed to a dry landfill [R. January 23, 1987 p. 173], which would, of necessity, reduce fire hazards. In conclusion Dr. Schoenberger stated "I don't believe that site will leak." [R. January 23, 1987 p. 241].

Petitioner's next witness on this criteria was Mr. Gary Diegan, identified above. Mr. Diegan testified that the proposal is designed to minimize damage to surrounding areas from fire, spills or other operational accidents; and the overall possibility of fire is minimized. [R. January 27, 1987 p. 206]. In addition to being an engineer, Mr. Diegan has obtained formal training for hazardous waste management and certification and level B training [self contained breathing apparatus].. [R. January 27, 1987 p. 217].

Mr. Diegan states, that Petitioner's trained operators and available equipment use is capable of containing and stopping any fires that might occur. Petitioner possesses high volume liquid pumping equipment on site, in addition to cover soils and bulldozing equipment. [R. January 27, 1987 p. 206].

It was again asserted that the probability of spill related accidents was extremely low because the facility only accepted non-hazardous solid wastes. Also nearby local municipal and County support and emergency services were available. "In summary, A.R.F. Landfill Corporation's plan of operations combined with its experienced, trained operating staff, fleet of on-site equipment and sound facility designs will minimize the potential for damage to the surrounding area from fires, spills and other operational accidents." [R. January 27, 1987 p. 207].

However, under cross examination, Mr. Diegan admitted that there were no written emergency procedures or protocol concerning fire or fuel oil spills. [R. January 27, 1987 p. 213].

Mr. Diegan also stated that restricted access, through the use of fences, gates and natural barriers enhanced security for the facility, [R. January 27, 1987 p. 213] even though there are no guards at the site after hours.

Objector's called Mr. Chudzik, identified above in Criteria No. 2. In reviewing general facility operations, Mr. Chudzik noted 10 positive aspects, including planned daily maintenance use of temporary earth berm, and plans to include gas migration control vents. However, Mr. Chudzik also identified 13 negative factors including, use of clays [versus granulated materials] for daily cover; failure to protect against equipment and refuse fires; refueling of autos should not occur at the site; failure to provide a written protocol in case of fire and failure to provide for surface water monitoring. [R. February 5, 1987 p. 160].

In conclusion, Mr. Chudzik stated that if the facility modified its proposal to accommodate his concerns then he believed the proposal is generally proposed to minimize the danger from fire, spills or operational accidents. [R. February 5, 1987 p. 176].

The Act requires this Board to review the decisions of the County Board to ensure that Petitioner's plan of operations minimize the danger from fire, spills and other operational accidents.

The main complaint raised by objectors was the fact that emergency procedures were not in writing and that certain commonly used consumer products placed in the landfill may be flammable. But there is no current requirement that emergency procedures be in writing. Petitioner has established that it will accept only non-hazardous, solid wastes; that the facility is located in a generally moist area; that municipal emergency facilities are nearby and that it has sufficient equipment and trained personnel to properly handle most operational incidents. This being the case, Petitioner demonstrated compliance with Criterion No. 5. The decision of the County Board [that Petitioner failed to demonstrate compliance with Criterion No. 5] is clearly against the manifest weight of the evidence. Accordingly, the County Board's decision regarding Criterion No. 5 is reversed.

CRITERION NO. 6

Ill Rev. Stat. 1986 ch 111 1/2 par 1039.2 requires the County Board to review the proposal to ensure that the traffic patterns to and from the facility are so designed to as to minimize the impact on existing traffic flows.

Petitioner's witness concerning this criterion was Mr. Gerald Salzman, senior associate at Barton-Aschman Associates, Inc., a traffic engineering and planning firm. Mr. Salzman has a

master's degree in transportation planning from Texas A&M, University.

Mr. Salzman testified that he conducted turning movement counts on January 9, 1987 at the intersection of Routes #83, 137 and Petersen Road; and on January 12, 1987 and January 14, 1987 at the intersection of Petersen and Harris Roads, and at Route #137 with Harris and Casey Roads. All counts were conducted from 7:00 to 9:00 a.m. and 3:30 to 6:00 p.m., [peak hours]. Traffic was also counted at the landfill entrance drive. Additionally, information was obtained from local governmental agencies of Grayslake, Round Lake Park, Lake County and I.D.O.T. [R. January 26, 1987 p. 101].

Likewise, daily truck traffic created by the landfill was recorded for a one-week period during June, 1986. Approximately 40% of landfill traffic is "oriented" to the north of Route #83 and 60% to the south, with 100 trucks/day average. [R. January 26, 1987 p. 103]. It was stated that truck frequency would peak from 12:30 - 1:30 p.m. each day. (R. January 24, 1987 p. 113]. Mr. Salzman stated that no plans currently exist for improving Harris and Casey Roads intersection with other major road-ways in the site's vicinity. [R. January 26, 1987 p. 104].

Mr. Salzman claims that even under a worst case scenario [an increase of 50%] all intersections could still operate at a satisfactory level. [R. January 26, 1987 p. 106].

To minimize any effect upon traffic, Mr. Salzman noted that Petitioner is proposing to install a right-turn lane for truck traffic approaching the facility from the south. This lane will be 150 feet with a minimum stacking, vehicle storage length of 50 feet. Additionally, the access will have a minimum curb return radius of 50 feet. As the landfill exhausts its storage capacity, a 200 foot section will be added to Harris Road between the Route #137 intersection and the facility entrance. [R. January 26, 1987 p. 107]. To minimize effects on traffic flow, petitioner will locate 150 feet of the access drive so as to accommodate a right-turn lane, 50 feet of stacking, 100 feet of taper. Additionally, a 200 foot section of Harris Road would be upgraded in accordance with I.D.O.T. standards.

Other aspects included a high velocity, low volume wheel washing system, which would eliminate mud residue on nearby roads. Mr. Salzman testified that this was generally a state-of-the-art proposal. [R. January 26, 1987 p. 109].

In summary Mr. Salzman concluded that the proposed expansion would have no adverse effect on traffic conditions in the Area. [R. January 26, 1987 p. 108].

However, under cross examination, Mr. Salzman admitted that he did not know the weight of a packer truck; [R. January 26, 1987 p. 118]; and no discussions have been held with the railroad

or the relevant local government concerning any proposed upgrading of Harris Road [R. January 26, 1987 p. 123]. Additionally, although he states that the major use of the railroads was from commuter traffic, Mr. Salzman did not know how many [long] freight trains use the tracks [R. January 26, 1987 p. 125]. Also, Mr. Salzman states that his analysis and review did not consider any traffic generated in relation to the proposed recycling center -- although such should be taken into consideration. [R. January 26, 1987 p. 127]. Mr. Salzman also noted that he did not know whether there was already existing, sufficient public right of way to widen Harris Road; [R. January 26, 1987 p. 143] and that the basis of his analysis was data provided by Petitioner only. [R. January 20,, 1987 p. 149]. Mr. Salzman also testified that it would be "15 years or less" before the entrance onto Route #83 received a traffic signal [R. January 26, 1987 p. 220]. Finally, Mr. Salzman testified that, although during filling of Areas No. 2 and 3, the traffic would be diffused, during the filling of area No. 4 traffic will be concentrated at one intersection. [R. January 26, 1987 p. 227].

Objectors called Mr. Paul Box, a traffic engineering consultant. Mr. Box holds a bachelor's degree in civil engineering and a certificate in highway traffic from Yale Bureau of Highway Traffic. [R. February 4, 1987 p. 168]. Mr. Box testified that he has conducted between 20 and 30 studies of traffic and site access locations over the last 21 years.

Initially Mr. Box criticized the configuration of a proposed five-legged intersection at Route #137 and Casey Road. Mr. Box called this particularly dangerous because a truck driver would have to look over his shoulder in an approximately 130 degree angle to observe oncoming traffic. [R. February 4, 1987 p. 174]. Mr. Box also criticized a proposed entrance as being too close to a nearby railroad crossing, thereby increasing the danger that a truck would get "caught" on the railroad tracks. [R. February 4, 1987 p. 175]. Mr. Box also noted that the traffic on route #137 was three times greater than on Route #83; and that nearby Harris Road was not wide enough to safely allow two way truck traffic. [R. February 4, 1987 p. 177]. Ultimately Mr. Box stated that in his professional opinion the proposed entrance to Harris road would substantially increase hazards; and that the proposal did not minimize impacts on existing traffic flows. [R. February 4, 1987 p. 179].

On cross examination Mr. Box admitted that driver error was a major portion of his concern, [R. February 4, 1987 p. 184] and that under a worst case scenario there would be no more than 60 trucks per hour entering the landfill.

Finally, Mr. Box stated as follows: "This would be the last place to put it. This is one of the worst locations for a landfill truck driveway that I have ever seen in my life." [R. February 4, 1987 p. 207].

Objectors also called Leland Reid, a nearby landowner. Mr. Reid testified that the roads exiting petitioner's site are always slick if there is moisture present. [R. February 6, 1987 p. 12] Mr. Reid also testified that equipment from the existing site made traffic matters worse. [R. February 6, 1987 p. 19]. Mr. Reid opposed the proposed landfill for, inter alia, the above stated reasons.

The Act requires this Board to review the record and ensure that Petitioner's proposal is designed to minimize impacts on existing traffic flows.

Although petitioner produced expert testimony regarding this criterion, petitioner failed to mollify problems associated with the 5 legged intersection [at the intersections of Route #137, Harris and Casey Roads]; problems associated with one entrance being placed too close to railroad tracks, problems associated with Harris Road being too narrow to safely allow truck traffic. At one point, Mr. Box, testified that the existence of a 130 degree angle intersection at Route #137, Harris and Casey Roads constituted "one of the worst locations for a landfill truck driveway that I have ever seen in my life."

Based upon the evidence, the County Board could reasonably have concluded that Petitioner had failed to meet Criterion No. 6. This Board cannot say that the evidence present clearly warrants a different conclusion. The County Board decision is not contrary to the manifest weight of the evidence and is, therefore, affirmed.

GENERAL PUBLIC TESTIMONY

During the time allowed for public testimony there were several citizens who sought to express their views. Speaking for the Village of Mundelein, Mayor Colin McRae stated that he was concerned about the air, asthetic beauty and landscape and quality of water in his community. [R. February 9, 1987 p. 9]. Mayor McRae stated that he believed proponent's clay liner, as well as the proposed leachate collection system, were inadequate. Mr. McRae stated that the "technology is available now to design, construct and operate safe landfills. What we need is courageous political leadership in order to assure that the technology of today is utilized today to protect us tomorrow." [R. February 9, 1987 p. 10]. In addition to other recommendations Mayor McRae requested double liners or a synthetic liner be used. [R. February 9, 1987 p. 15].

Mayor McRae criticized the proposal as being too close to nearby wells and failing to contain a gas monitoring and leachate collection systems. Mayor McRae stated that many potentially hazardous chemicals are found in municipal solid wastes. [R. February 9, 1987 p. 18]. Mr. McRae ultimately stated that denial of the application was the responsible choice for the County Board. [R. February 9, 1987 p. 23].

Next, Mr. George Bell read a resolution at the request of the Freemont Town Board of Trustees. Mr. Bell read the resolution, which contained a criterion-by-criterion breakdown of the six criteria required pursuant to S.B. 172. Mr. Bell's statement agreed with Petitioner on some criteria but disagreed on others. Ultimately, on behalf of the Freemont Town Board of Trustees, Mr. Bell recommended that the County Board reject Petitioner's application.

Next, Mrs. June R. Salandra testified. She stated that the current site and the closed EDCO site were already creating health problems and the granting of petitioner's application would only increase these. She recommended denial of Petitioner's application. [R. February 9, 1987 p. 33].

Next, Mr. William Frank testified in opposition to Petitioner's application. Mr. Frank criticized the current operations as sloppy, inadequate and improperly allowing a foul smell to be emitted. He also stated "the current use of the Avon-Fremont drainage ditch to drain the existing landfill jeopardizes the health of all life downstream. [R. February 9, 1987 p. 36].

Next, Mr. Douglas Salandra testified. Mr. Salandra complained about foul orders and chemical smells emanating from the current site. [R. February 9, 1987 p. 48].

Next, Mr. R.J. Morby, Sr., testified in opposition to Petitioner's application. Mr. Morby criticized the "lack" of a leachate collection system in addition to the use of one manhole. Mr. Morby recommended two manholes be used. Finally, Mr. Morby noted that the land encompassing the proposal is "some very good farmland." [R. February 9, 1987 p. 52].

Next, Mr. Lorens Tronet, Executive Director of Lake County Defenders, testified in opposition to Petitioner's proposal. Mr. Tronet attacked the proposal criterion-by-criterion in addition to attacking the operators of the current site. Mr. Tronet stated that in his opinion all landfills leak. [R. February 9, 1987 p. 80]. Mr. Tronet also criticized Petitioner's failure to obtain a 10 million dollar environmental insurance policy, [R. February 9, 1987 p. 87] and the fact that the application contains a monitoring provision for only 3 years during the post closure period. [R. February 9, 1987 p. 98]. Mr. Tronet also criticized the water drainage system in-place before closure [R. February 9, 1987 p. 116].

Next, Mr. Pete Tekampe, a nearby farmer who raises approximately one hundred head of cattle, complained about foul odors and sea gulls scavenging the site. Mr. Tekampe stated that he was in opposition to Petitioner's proposal and that the Lake County Farm Bureau was vigorously opposed to any expansion of the existing site. [R. February 9, 1987 p. 170].

This Opinion constitutes the finding of fact and the conclusions of law of the Board in this matter.

ORDER

The March 24, 1987 Decision of the Lake County Board, denying site-suitability approval to Petitioner, A.R.F. Landfill, Corporation for expansion of its existing facility is hereby affirmed.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

Board Members J. Anderson, R. Flemal and B. Forcade concurred.

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

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board