

ILLINOIS POLLUTION CONTROL BOARD

October 5, 2000

CC LANDFILL, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 01-55
	)	(Pollution Control Facility
THE COLES COUNTY BOARD,	)	Siting Review)
	)	
Respondent.	)	

ORDER OF THE BOARD (by S.T. Lawton, Jr.):

On September 21, 2000, CC Landfill, Inc. (CC) filed an appeal of the denial of its application for site location suitability approval of its pollution control facility located in Coles County, Illinois, pursuant to Section 39.2 of the Environmental Protection Act (Act). 415 ILCS 5/39.2 (1998). CC states in its petition that the Coles County Board voted on August 18, 2000, to deny siting approval on the basis that criteria one, three, and eight were not met, but that the Coles County Board did not reduce its decision to writing. CC alleges that the county proceeding was fundamentally unfair, and that the denial of siting approval was against the manifest weight of the evidence.

In addition to the Coles County Board, the petition purports to join as party respondents the individual members of the Board, Bill Harrington, Eugene Sims, Timothy Yow, Tim Gover, Robert Webb, Jonathan McKenzie, Robert Crowder, Michael Genta, Jan Eads, Carl Furry, Pat Black, Ray Allen, and the Coles County Environmental Force (CCEF), an organization that opposed the siting in the Coles County proceeding.

PROPER PARTIES

The first matter for consideration is dismissal of improperly named parties. Section 40.1 of the Act is very clear in delineating who the parties may be in cases challenging local government's site location suitability decisions.

Pursuant to Section 40.1(a) of the Act, in a hearing before the Board regarding denial of siting, only the county board or governing body of the municipality shall appear as a respondent. 415 ILCS 5/40.1(a) (1998). The petition states that the respondent CCEF is an environmental organization, not the county board or governing body of the municipality. Accordingly, it is dismissed.

Individual Coles County Board members are not properly named in that the Coles County Board itself is the only entity authorized to appear before the Board as a respondent under Section 40.1(a) of the Act. The Board dismisses the individual Coles County Board members, Bill Harrington, Eugene Sims, Timothy Yow, Tim Gover, Robert Webb, Jonathan McKenzie, Robert Crowder, Michael Genta, Jan Eads, Carl Furry, Pat Black, and Ray Allen from this matter. The Board accepts this matter for hearing as it pertains to the remaining respondent, the Coles County Board. The caption on today's order reflects this dismissal of improperly joined parties.

COUNTY RECORD AND BOARD DECISION DEADLINE

Pursuant to Section 40.1(a) of the Act (415 ILCS 5/40.1(a) (1998)), this Board's hearing is to be based "exclusively on the record before the county board or governing body of the municipality." Although the Act does not specifically state who is required to file such record with the Board, the Board believes that the County of Coles must prepare and file the record on appeal.

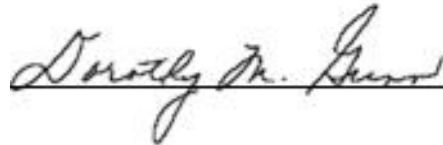
The record shall contain legible versions of all documents, transcripts, and exhibits deemed to pertain to this proceeding from initial filing through the final action by the local government body. The record shall also contain

the originals of all documents and shall be sequentially numbered, placing the letter "C" before the number of such page. In addition to the actual documents which comprise the record, the Coles County Clerk shall also prepare a document entitled "Certificate of Record of Appeal" which shall be an index of the record that lists the documents comprising the record and shows the page number upon which they start and end. Seven copies of the certificate, seven copies of the transcript of the county hearing, and three copies of any other documents in the record shall be filed with the Board; a copy of the certificate shall be served upon CC. The Coles County Clerk is given 21 days from the date of this order to "prepare, bind and certify the record on appeal." See 155 Ill. 2d R. 324. If the record is not legible, sequentially numbered, or fails to include an appropriate index of record, the Clerk of the Board may refuse to accept the document for filing. For further guidance in preparing and filing the record on appeal, the county may refer to the Illinois Supreme Court Rules 321 through 324. See 155 Ill. 2d R. 321-324.

If the Board fails to act in 120 days as required by Section 40.1(a) of the Act (415 ILCS 5/40.1(a) (1998)), petitioner may deem the site location approved. A hearing on the petition will be timely scheduled within 120 days of the filing of the appeal by the Board's hearing officer. Petitioner may, however, waive the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of October 2000 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board