

ILLINOIS POLLUTION CONTROL BOARD  
August 10, 1989

WASTE MANAGEMENT OF ILLINOIS, )  
INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 89-28  
 )  
VILLAGE OF BENSENVILLE, )  
 )  
Respondent. )

MR. DONALD J. MORAN, APPEARED ON BEHALF OF THE PETITIONER; AND  
MR. LARRY M. CLARK, APPEARED ON BEHALF OF THE RESPONDENT.

DISSENTING OPINION (by J. Anderson, J. C. Marlin and J. T. Meyer):

We dissent from the Board majority's decision of July 13, 1989, which affirmed Bensenville's denial of local siting approval. We dissent also from the majority's Opinion of August 10, 1989, which affirms Bensenville's finding that WMI had not met its burden of proof as to Criterion #1, regarding need.

One of the troubling aspects of the majority opinion is its selective reliance upon the testimony of WMI's witness, Mr. Edward Evanhouse, in finding that the Village could reasonably have found that WMI had failed to meet its burden of proof on Criterion #1 (Need).

The majority first asserts as support the fact that the witness "admits that the application does not discuss the service area" (Opinion, pg. 11).

Any lack of specific delineation of the Garden City service area in the siting application was certainly cured by Mr. Evanhouse's quoted testimony in the hearing which is, after all, an integral part of the information gathering process. The majority's suggestion that such a lacking supplied a basis for upholding the Village on Criterion #1 disregards the fact that a hearing was held and a reply was given at that hearing to that question. The law does not require a perfect application; the law requires a hearing at which such questions may be answered. That was clearly done with respect to the service area.

The majority then points to Mr. Evanhouse's uncertainty as to the quantity of waste Garden City takes to a landfill owned by WMI at Northbrook or to the Congress Development Company Hillside Landfill. The majority chooses to give great weight to what we believe is not an important point in demonstrating need for a transfer station. The important point is that the Hillside landfill quota will not allow Garden City to increase its reliance on Hillside as other landfills close or restrict access. The majority also ignores Mr. Evanhouse's testimony regarding the greater distance to the Northbrook landfill and its limited remaining life.

Most important, the majority appears to blur the distinction between landfills and transfer stations in determining need. If the yardstick for measuring need is strictly waste volumes generated and landfill capacity, it would appear to be impossible to ever demonstrate a "need" for a transfer station prior to an acute crisis. A transfer station siting adds not one cubic foot of capacity. It is not a disposal site. Yet a transfer station can, by performing compaction and waste minimization as WMI here proposes, prolong the life of existing landfills, divert usable materials from the wastestream, and thus promote the public policy expressed by the General Assembly in Section 2 of the Illinois Solid Waste Management Act (Ill. Rev. Stat. 1987, ch. 111  $\frac{1}{2}$ , par. 7052).

The record demonstrates amply that WMI justified the proposed transfer station on the basis of the "efficiencies" associated with waste reduction, waste transport reduction and conservation of landfill space (R. 130-131, 138-142). There is nothing in the record to suggest that the proposed transfer station would not improve efficiencies or to challenge WMI's assertions in this regard.

What constitutes a "transfer station" is not defined in the Act or Board regulations. At the very least, it connotes a stopping off point where the contents of garbage trucks are re-loaded onto other, larger vehicles capable of carrying the contents to one or more destinations. The rationale for a transfer station is inherently to achieve efficiencies. Salvaging activities that allow some of the waste to be diverted to a destination for reuse, and compaction activities that further increase the efficiencies of the larger vehicles, are activities that also accommodate waste needs.

The question becomes, then, did Mr. Evanhouse demonstrate need sufficiently for this Board to reverse the Village. We believe he did.

Mr. Evanhouse's testimony that was imprecise or lacking in knowledge under cross-examination, was not in areas essential to, or in some instances even relevant to, WMI's demonstration of

need. That WMI used its own knowledge and field experience to demonstrate that there are waste disposal problems in the area now in terms of accessibility and distance is arguably more acceptable and more current than an outside analytical "numbers" study. Given the dynamics of, and the restrictions on, the movements of the waste streams in the urban setting in which WMI finds itself, its explanation as to why it believes it is necessary to pursue its proposed course of action at this time as opposed to trying to continue "as is" was credible, on point, and unrebutted.

We believe that the majority's rationale for affirming the Village has placed almost insurmountable hurdles in siting transfer stations anywhere in this State; neither the statute nor the evidence as viewed under the manifest weight standard supports this result.

For these reasons we respectfully dissent.

Joan G. Anderson  
Joan G. Anderson *JG*

John C. Marlin  
J. C. Marlin *JCM*

J. J. Meyer  
J. J. Meyer

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was submitted on the 21<sup>st</sup> day of August, 1989.

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

