

ILLINOIS POLLUTION CONTROL BOARD  
April 22, 1993

CITIZENS AGAINST REGIONAL LANDFILL, )  
 )  
 Petitioners, )  
 )  
 v. ) PCB 92-156  
 ) (Landfill Siting)  
 THE COUNTY BOARD OF WHITESIDE COUNTY )  
 and WASTE MANAGEMENT OF ILLINOIS, )  
 INC., )  
 )  
 Respondents. )

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a motion for reconsideration filed by Citizens Against Regional Landfill (CARL) on April 1, 1993. CARL requests the Board to reconsider the decision in its February 25, 1993 order concerning the submission of the deposition transcript of Attorney Barrett. Waste Management of Illinois Inc. (WMII) filed a response to the motion on April 12, 1993. Whiteside County (County) filed its response to the motion on April 13, 1993.

In its February 25, 1993 opinion and order, in ruling on CARL's "Motion for Review of Hearing Examiner Rulings Pertaining to Discovery and Hearing Record", the Board affirmed the hearing officer's rulings concerning the deposition of Attorney Barrett and affirmed the hearing officer's submission of portions of the deposition transcript to the Board as an offer of proof. The Board found that the entire deposition transcript need not be submitted and that the portions submitted provided a sufficient basis for the Board to review the hearing officer's rulings.

CARL contends that, at the very least, the entire deposition should have been received as an offer of proof. CARL further contends that the Board erred in not reviewing the deposition transcript when reviewing the hearing officer's rulings concerning the deposition.

WMII and the County argue that the motion for reconsideration should be denied because petitioner presents no new evidence or errors of fact or law but merely repeats its previous arguments. The County also contends that petitioner did not make an adequate offer of proof at the hearing and therefore has waived the issue of exclusion on appeal.

The Board denies CARL's motion for reconsideration because the arguments presented in the motion for reconsideration are the same as those presented in CARL's previous motion and have been fully considered by the Board. CARL has presented no new evidence or errors in fact or law. However, the Board wishes to

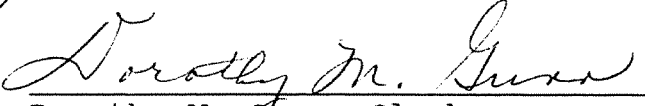
clarify that when ruling on CARL's motion for review of the hearing examiner's rulings, it reviewed the portions of the deposition transcript submitted by the hearing officer as an offer of proof and the December 18, 1992 hearing transcript. Further, the Board considers this to be an adequate offer of proof in that it showed what the expected testimony would be, by whom it would be made and its purpose. (Scaggs v. Horton (5th Dist, 1980), 85 Ill. App. 3d 854, 411 N.E.2d 870.) The Board also notes that the attorney for CARL stipulated that those portions of the deposition transcript submitted to the Board would be protected as an offer of proof. (Hrg. Tr. at 137.)

IT IS SO ORDERED.

J. Theodore Meyer abstained

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)<sup>1</sup>) provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 22<sup>nd</sup> day of April, 1993, by a vote of 5-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board

<sup>1</sup> Previously codified at Ill. Rev. Stat. 1991, ch. 111½, par. 1041.