

ILLINOIS POLLUTION CONTROL BOARD
July 20, 2006

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|--------------------------|---|------------------------------------|
| PEORIA DISPOSAL COMPANY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 06-184 |
| |) | (Pollution Control Facility Siting |
| PEORIA COUNTY BOARD, |) | Appeal) |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by N.J. Melas):

On July 17, 2006, Peoria County Board (County) moved the Board for leave to file the administrative record on compact disc (CD). For the reasons set forth below, the Board grants the County's motion in part. The Board requires the County to file one original hard copy, but allows the additional four required copies to be filed on CD.

On June 7, 2006, the Board received a petition requesting the Board to review the County's alleged failure to take action by May 3, 2006, on a siting application. The petitioner, Peoria Disposal Company (Peoria Disposal), filed the application on November 9, 2005. Peoria Disposal sought a vertical and horizontal expansion of its existing hazardous waste landfill located in Peoria County. According to the petition, the County failed to pass a motion to approve Peoria Disposal's application. Peoria Disposal states the County made no written findings and issued no written decision. On June 15, 2006, the Board accepted the petition for hearing.

On June 26, 2006, County moved for more time to file the administrative record of its proceedings. In a written June 30, 2006 order, the hearing officer granted the County until July 28, 2006, to file the record. On July 5, 2006, the County waived the Board's decision deadline until January 4, 2007.

In the County's July 17, 2006 motion ruled on today, the County contends that the record is voluminous and that generating copies of the administrative record and file-stamping the documents would be extremely time-consuming and costly. The County asserts that filing the administrative record on CD would reduce the costs of compiling, certifying, and copying the record. Finally, the County states that filing the administrative record on CD will not prejudice the Board or the public.

Neither the Board nor the hearing officer will grant a motion before the expiration of the 14-day response period unless undue delay or material prejudice would result, or in a deadline driven case where no waiver has been filed. 35 Ill. Adm. Code 101.500(d). As determined by the hearing officer and agreed to by the parties, the County must file the record on or before

July 28, 2006. Therefore, the Board rules on this motion today, before the expiration of the response period.

Section 107.302 of the Board's procedural rules requires the County to file the entire record of its decision as directed by the Board or hearing officer order. 35 Ill. Adm. Code 107.302. Under Section 107.304(b), the "record must contain the originals or legible copies of all documents, must be arranged in chronological sequence, and must be sequentially numbered, placing the letter 'C' before the number of each page." 35 Ill. Adm. Code 107.304(b). Section 101.302(h)(4) allows a siting authority to file a signed original and four duplicate copies (five total) of the record. 35 Ill. Adm. Code 101.302(h)(4).

The Board is committed to streamlining the filing process, reducing the number of paper copies filed, and encouraging electronic filing. *See, e.g., Revision of the Board's Procedural Rules: 35 Ill. Adm. Code 101-130, R00-20, slip op. at 5 (Dec. 21, 2000)*. The Board has successfully implemented an electronic filing program and intends to codify the electronic filing process. The Board, however, has not as yet developed procedural rules outlining all details and requirements for the electronic filing of documents.

In granting, in part, a motion to file the administrative record in a Clean Air Act Permit Program (CAAPP) permit appeal on CD, the Board recently stated:

At this juncture, the Board is not prepared to agree to the filing of this CAAPP record in non-searchable electronic copy only. The [Illinois Environmental Protection] Agency correctly notes that paper copy is not searchable in the same way that electronic text is not. Paper copies, however, can be physically manipulated to allow for side-by-side comparison of various pages. Hard copies, even photocopies of original documents, generally provide fewer legibility challenges than do documents that have been scanned from hard copy into electronic text, and then printed from electronic text to hard copy. *See e.g., Dynegy Midwest Generation, Inc. (Baldwin Energy Complex) v. IEPA, PCB 06-63 (Feb. 16, 2006)*.

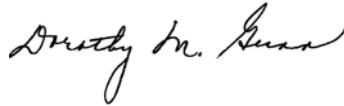
In that CAAPP permit appeal, the Board granted the Illinois Environmental Protection Agency's (Agency) motion to file the record on CD. The Board, however, required the Agency to file one original paper copy of the record. The Board allowed the Agency to file the additional required four copies of the record on CD.

As it did in Dynegy, today the Board grants the County's motion in part. For similar reasons, the Board cannot allow the County to file the administrative record solely on CD. For purposes of appeal, the Board must maintain an original, hard copy version of the record. S. Ct. Rule 321, 324. Landfill siting appeals generally generate considerable public interest and requests to view the record at the Clerk's office. The Board does not yet have the resources to dedicate a computer solely for the public to view records electronically. Under the procedural rules, the Board also does not bear the costs of preparing and certifying the record (35 Ill. Adm. Code 107.306), so the Board should not be required to bear the costs of producing a hard copy for public viewing purposes.

For these reasons, the Board orders the County to file at least one original paper copy of the record. The County may file the additional four required copies of the record on CD. All of the procedural rules applicable to hard copies also apply to the electronic version of the record, such as the rules outlining the record contents (35 Ill. Adm. Code 107.304) and requiring certification of the record (35 Ill. Adm. Code 107.308), including an index listing the documents and showing page numbers.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 20, 2006, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board