

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

NOV 20 2006

STATE OF ILLINOIS
Pollution Control Board

KIBLER DEVELOPMENT CORPORATION,
and MARION RIDGE LANDFILL, INC.,

Petitioners,

v.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

07-43
PCB 05-35
(Permit Appeal - Land)

PETITION FOR REVIEW OF PERMIT DENIAL

NOW COME Petitioners, KIBLER DEVELOPMENT CORPORATION and MARION RIDGE LANDFILL, INC., through their undersigned attorney, and file this Petition for Review of Permit Denial pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/40(a)(1), and pursuant to 35 Ill. Adm. Code, Part 105, Subpart B, and seeks reversal of the decision made by the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (hereinafter "IEPA"), dated October 18, 2006, which denied an application of Petitioners to modify the permit currently effective at the site. In support of this petition, Petitioners state as follows:

1. On or about May 2, 2006, Petitioners submitted to the IEPA an application for modification of the construction and operation criteria set forth in Permit No. 2000-199-LF, which was issued to Petitioners by the IEPA's Bureau of Land on July 23, 2004.
2. By letter dated October 18, 2006, the IEPA denied the Petitioners' application for modification. A true and accurate copy of that permit denial letter is attached hereto, and incorporated herein, as Exhibit "A."
3. Petitioners hereby appeal from the decision of the IEPA, which should be reversed for one or more of the following reasons:
 - a. The IEPA decision is arbitrary and unreasonable, and lacks any basis in law or fact;
 - b. The IEPA decision, set forth in the October 18, 2006 letter, is vague and unintelligible;

- c. The IEPA has failed to state the facts and laws supporting its decision, and in particular has failed to identify any provision of the Illinois Environmental Protection Act or this Board's regulations which would be violated by the Petitioners' requested modification.
- d. Petitioners reserve the right to raise such other and further bases for permit review and reversal as such bases become known and apparent.

WHEREFORE, Petitioners request that this Board order the IEPA to submit the record forthwith, set this appeal for a hearing regarding the IEPA's denial, and, after the hearing, enter an order reversing the decision of the IEPA, and grant such other and further relief as this Board deems just and appropriate.

Respectfully submitted,

Kibler Development Corporation and Marion Ridge
Landfill, Inc., Petitioners,

By their attorney,

HEDINGER-LAW OFFICE

By


Stephen F. Hedinger

Hedinger Law Office
2601 South Fifth Street
Springfield, IL 62703
Telephone: (217) 523-2753
Fax: (217) 523-4366



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

October 18, 2006

Certified Mail

7002 2030 0001 1879 3797

Marion Ridge Landfill, Inc.
Attn: Mr. Patrick Mazza
290 South Main Place
Carol Stream, Illinois 60188

Re: 1990555136 -- Williamson County
Marion Ridge Landfill
Log No. 2006-159
Permit File

Dear Mr. Mazza:

This will acknowledge receipt of your Application for Permit to modify a solid waste management site, dated May 2, 2006, and received by the Illinois EPA on May 8, 2006.

Your permit application to modify the types of waste accepted at the landfill is denied.

You have failed to provide proof that granting this permit would not result in violations of the Illinois Environmental Protection Act (Act). Section 39(a) of the Act [415 ILCS 5/39(a)] requires the Illinois EPA to provide the applicant with specific reasons for the denial of permit. The following reason(s) are given:

1. Subsection 39(a) of the Act states that "The Agency shall adopt such procedures as are necessary to carry its duties under this Section". By practice, the Illinois EPA has adopted the procedure of describing solid waste landfills by waste type in the first sentence of the landfill's permit and requiring changes to this description be made through the permit process.

The permit application (Log No. 2006-159) proposes to amend the landfill's permit by the addition of three special conditions. The first two proposed conditions would restrict the type of waste the landfill will be able to accept. The third condition would allow the Marion Ridge Landfill to begin to accept putrescible waste within 14 days of obtaining an exemption, or some other type of exclusion, from the requirements of the Ford Act ---- without any further modification to the landfill's permit from the Illinois EPA's Bureau of Landfill.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

PRINTED ON RECYCLED PAPER

EXHIBIT

tabbies

A


Currently, the first sentence of the permit for the Marion Ridge Landfill says that the permit allows the development of a "municipal solid and non-hazardous special waste landfill." Under the Illinois-EPA's procedure, if the first two conditions proposed in the application were included in the permit, the restrictions they impose would need to be reflected in the first sentence of the permit. That is, the first sentence of the permit letter would need to be modified to state that the permit allows the development of a landfill that will be able to accept non-hazardous solid waste, including non-putrescible special waste; and excluding all putrescible waste and household waste. Also, under the procedure, if in the future, the Marion Ridge Landfill becomes able to and wants to start accepting household and putrescible waste, it would need to have the first sentence of the permit changed through the permit process.

Thus, the proposed third condition is counter to the procedure adopted by the Illinois EPA in accordance with Subsection 39(a) of the Act.

Within 35 days after the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Should you wish to reapply or have any questions regarding this application, please contact Tom Hubbard at 217/524-3286.

Sincerely,



Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of Land

LSL
SFN:TWH:bjh\06754s.doc
TWH

cc: Michael W. Rapps, P.E., Rapps Engineering & Applied Science
Jack Delaney, Federal Aviation Administration
Steven J. Long, P.E., IDOT, Division of Aeronautics

RECEIVED
CLERK'S OFFICE

NOV 20 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

KIBLER DEVELOPMENT CORPORATION and
MARION RIDGE LANDFILL, INC.,

Petitioners,

v.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

Case No. 2005-035
Permit Appeal

0743

NOTICE OF FILING AND PROOF OF SERVICE


The undersigned certifies that an original and nine copies of the foregoing Petitioners' Petition for Review of Permit Denial and of this Notice of Filing and Proof of Service, were served upon the Clerk of the Illinois Pollution Control Board, and one copy to the Respondent, by enclosing same in an envelope addressed to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Douglas P. Scott, Director
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Mail Box in Springfield, Illinois before 5:30 p.m. on the 16th day of November, 2006.


Stephen F. Hedinger

Hedinger Law Office
2601 South Fifth Street
Springfield, IL 62703
Telephone: (217) 523-2753
Fax: (217) 523-4366
hedinger@cityscape.net

This document prepared on recycled paper