

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2010

COALVILLE ROAD ENTERPRISES,)	
)	
Petitioner,)	
)	
v.)	PCB 10-76
)	(Permit Appeal – Land)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A.S. Moore):

On March 31, 2010, Coalville Road Enterprises timely filed a petition asking the Board to review a February 24, 2010, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2008); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns Coalville Road Enterprises' solid waste management facility located at R.R. #7 Coalville Road, Streator, Livingston County. For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (415 ILCS 5 (2008)) (Act), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2008); 35 Ill. Adm. Code 105.Subpart D. In this case, the Agency denied Coalville Road Enterprises a permit to modify its solid waste management facility. Coalville Road Enterprises appeals on the grounds that granting the permit would not result in violations of the Act or Board regulations. Coalville Road Enterprises' petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. Coalville Road Enterprises has the burden of proof. 415 ILCS 5/40(a)(1) (2008); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency's reasons for denying or conditionally granting the permit, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom.* Community Landfill Co. & City of Morris v. PCB & IEPA, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2008)), which only Coalville Road Enterprises may

extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Coalville Road Enterprises “may deem the permit issued.” 415 ILCS 5/40(a)(2) (2008). Currently, the decision deadline is July 29, 2010, which is (the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 15, 2010.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 30, 2010, which is 30 days after the Board received Coalville Road Enterprises’ petition. *See* 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 15, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board