

ILLINOIS POLLUTION CONTROL BOARD  
September 11, 1986

WASTE MANAGEMENT OF ILLINOIS, )  
INC, a Delaware Corporation, )  
 )  
Petitioner, )  
 )  
v. ) PCB 86-109  
 )  
MCHENRY COUNTY BOARD, )  
 )  
Respondent. )  
 )  
and )  
 )  
MCHENRY COUNTY CONCERNED )  
CITIZENS AND MCHENRY COUNTY )  
DEFENDERS, )  
 )  
Cross-Petitioners, )  
 )  
and )  
 )  
MCHENRY COUNTY BOARD AND )  
WASTE MANAGEMENT OF )  
ILLINOIS, )  
 )  
Cross- Respondents. )

ORDER OF THE BOARD (by J. Anderson):

On August 15, 1986, Waste Management of Illinois, Inc. (WMI) filed a motion to dismiss the cross-appeal herein, which motion is essentially a motion to reconsider the Board's Order of August 14, 1986 allowing the cross-appeal to proceed. No responses have been received.

The motion to reconsider is granted. Upon reconsideration, the Board reaffirms its Order of August 14, 1986. The Board will not further comment on its reasoning for allowing cross-appeals. However, the previous Order did not discuss the issue of the timeliness of the cross-appeal. As WMI correctly notes, Supreme Court Rule 303(a)(3) states that a cross-appeal may be filed by a party if a notice of appeal has been timely filed by any other party, provided that the cross-appeal is filed "within 10 days after service upon" the party seeking to cross-appeal.


However, in SB 172 cases, there are no "parties" designated at the County level, and the Act does not require service of an

appeal to the Board on all participants at the County hearing. Indeed, in this case, WMI's notice of appeal does not indicate that it made service upon the McHenry County Concerned Citizens and McHenry County Defenders, and the pleadings do not indicate on what date, or how, these groups received notification of the filing of the appeal. The pleadings do make clear, however, that the cross-appeal was mailed 14 days after the filing of the appeal. Under these circumstances, in which no undue delay of notice of the cross-appeal is evidenced which would prejudice WMI, the Board will consider the cross-appeal timely filed. The cross-appeal may proceed.

IT IS SO ORDERED.

J. T. Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 11<sup>th</sup> day of September, 1986 by a vote of 5-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board