

ILLINOIS POLLUTION CONTROL BOARD
October 3, 2002

MINERAL SOLUTIONS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 03-39
)	(Permit Appeal – Land)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On September 30, 2002, Mineral Solutions, Inc. (Mineral Solutions) timely filed a petition asking the Board to review an August 26, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.206(a). The Agency imposed a condition on Mineral Solutions’ significant modification of the permit for its existing non-hazardous waste landfill known as the Indian Creek Landfill in Tazewell County. The condition requires that, prior to accepting new or additional waste, Mineral Solutions must apply for a new operating permit, and submit proof that it has received local siting approval, under Sections 39(c) and 39.2 of the Environmental Protection Act. *See* 415 ILCS 5/39(c), 39.2 (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002. Mineral Solutions appeals on the grounds, among others, that the Agency is erroneous in its alleged conclusion that Indian Creek Landfill has not accepted waste for disposal in more than five years. Mineral Solutions’ petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

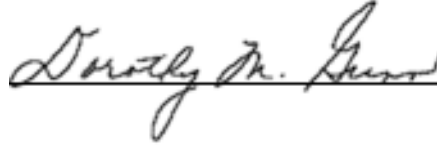
Mineral Solutions has the burden of proof. 415 ILCS 5/40(a)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; *see also* 35 Ill. Adm. Code 105.112(a). Hearings “will be based exclusively on the record before the Agency at the time the permit or decision was issued.” 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002), which only Mineral Solutions may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Mineral Solutions “may deem the permit issued.” 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is January 28, 2003 (the 120th day after September 30, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 23, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by October 30, 2002 which is 30 days after Mineral Solutions filed the petition. 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. 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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 3, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board