

ILLINOIS POLLUTION CONTROL BOARD  
September 21, 1995

|   |   |                      |
|---|---|----------------------|
| CARL AND EDNA BALL, d/b/a/<br>C & E RECYCLING AND RESOURCE<br>RECOVERY, | ) |                      |
|   | ) |                      |
| Petitioners,  | ) |                      |
|   | ) |                      |
| v.  | ) | PCB 95-182           |
|   | ) | (Permit Appeal-Land) |
|   | ) |                      |
| ILLINOIS ENVIRONMENTAL<br>PROTECTION AGENCY,                            | ) |                      |
|   | ) |                      |
| Respondent.   | ) |                      |

ORDER OF THE BOARD (by G. T. Girard):

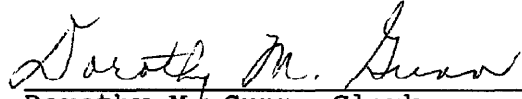
On August 31, 1995, the Board received an "Emergency Motion for Entry of Default and Sanctions" filed by the petitioners. The petitioners filed the motion seeking sanctions due to the Illinois Environmental Agency's (Agency) failure to file the record in this matter. On September 6, 1995, the Board received a request to withdraw the motion for sanctions and entry of default. The Board will allow petitioner to withdraw the motion.

On September 8, 1995, the Agency filed a motion to file the record instantan accompanied by the Agency record. The petition was filed with the Board on June 22, 1995, and the Agency asserts that it received notice of the petitions on June 26, 1995. Pursuant to 35 Ill. Adm. Code 105.102(a)(4), the Agency record is to be filed with the Pollution Control Board within 14 days "upon notice of the petition". The record was therefore due to be filed on July 10, 1995. This motion and the record were filed 72 days after the Agency received notice of petitioner's appeal, and the record is 58 days late. The Board is particularly concerned that the record was filed only one business day prior to hearing which was held on September 11, 1995.

The Agency's motion to allow filing of the Agency record instantan is hereby granted. The Board notes that all parties would be better served if in future cases the Agency would file a timely motion requesting extension of time to file the record.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 2<sup>nd</sup> day of September, 1995, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board