

ILLINOIS POLLUTION CONTROL BOARD
October 20, 1994

SAFETY-KLEEN DOLTON RECYCLE CENTER,)	
)	
Petitioner,)	
)	
v.)	PCB 93-205
)	(Permit Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

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

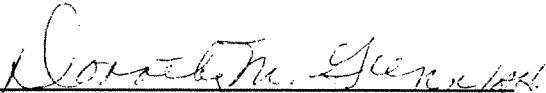
This matter is before the Board on a October 17, 1994, Motion to file the record instanter, filed by the Illinois Environmental Protection Agency (Agency). This petition was filed with the Board on November 1, 1993, and the Agency states that it received notice of the petition on November 3, 1993. Pursuant 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 November 17, 1993.

The Agency explains in the instant motion that the petitioner (Safety-Kleen) has approximately fifteen separate appeals pending before the Board. Most of these permit appeals have several issues of law and fact in common according to the Agency. During the past year, the Agency and Safety-Kleen have engaged in numerous attempts to settle all of the pending permit appeals. The Agency further states that the instant case is the only case which did not contain common issues of law and fact in relation to the other pending appeals. The Agency record, which is voluminous, was not filed during the settlement negotiations because both parties believed that the instant appeal could be resolved and, if resolved, the record would not need to be filed with the Board. The Agency states that petitioner's counsel has been fully informed concerning the Agency record and has no objection to granting this motion.

In light of the fact that the petitioner does not object, the Board hereby grants the Agency motion to file the record instanter. However, in the future, the Board instructs the Agency to file a request for stay of the proceeding or other appropriate motion, such as a motion for extension of time. In this case the Board had no way of knowing that this record was voluminous, that the parties were negotiating, or that there were extenuating circumstances which precluded a timely filing of the Agency 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 20th day of October, 1994, by a vote of 50.


Dorothy M. Gunn, Clerk
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Illinois Pollution Control Board