

ILLINOIS POLLUTION CONTROL BOARD
May 22, 1986

WELLS MANUFACTURING COMPANY,)
)
 Petitioner,)
)
 v.) PCB 86-48
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on an April 28, 1986, Illinois Environmental Protection Agency ("Agency") Motion for Reconsideration of an April 24, 1986, Board Order directing that the Agency's record of decision be filed "expeditiously." This April 24, 1986, Order was entered in response to a Wells Manufacturing Company ("Wells") Motion to Compel Filing of Agency Record. Reconsideration is granted.

The Agency argues that Wells has waived the statutory deadline and that according to the terms of the Board's April 10, 1986, scheduling order, it has up to 10 days before hearing to file the Agency Record. The Board believes that this is not an accurate interpretation of the scheduling order and will clarify its intent.

Section 105.102 requires that the Agency file the Record within 14 days of notice of petition of permit appeal. The April 10, 1986, scheduling order envisions a situation where no waiver of statutory decision deadline is granted by a petitioner and the record for Board decision needs to be completed in a short period of time. Where a waiver has been granted, it was the Board's intent to allow a loosening of the tight schedule. However, absent extenuating circumstances, the Agency Record should always be filed expeditiously as required by the procedural rules. The compilation of an Agency Record is not a process that normally requires complex legal, technical or policy analysis like a variance recommendation. Theoretically, it exists at the time the Agency's permit decision is made and the Board is not presented with any reason or rationale why the Agency Record can not be timely filed in this case. Therefore, the Board will again order the Agency to file the record of decision. The Agency shall file the Agency Record no later than June 2, 1986.

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 22nd day of May, 1986, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board