

ILLINOIS POLLUTION CONTROL BOARD  
February 26, 1986

INTERSTATE POLLUTION )  
CONTROL, INC., )  
 )  
Petitioner, ) PCB 86-19  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J. Anderson):

Currently pending in this matter are Agency motions of February 10, 1986 to dismiss that portion of the petition challenging a December 27 permit denial letter, and to strike a portion of the petition, and IPC motions of February 3, 1986 to consolidate this petition with PCB 85-155 and for a stay of the effect of the permit denials (a temporary stay entered February 6 expires today). The Agency motion of February 21 and the IPC motion of February 25 to file instanter replies to earlier pleadings are granted.

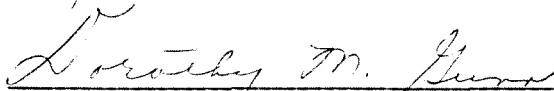
The motion to dismiss contains threshold issues, disposition of which may moot the other motions. IPC urges application by the Board of the so-called "mailbox rule" contained in Supreme Court Rule 373, but has not provided a certificate or affidavit of mailing as contemplated by that rule. The Board declines to rule on service issues absent description and verification of the facts of service. IPC shall provide a certificate or affidavit to be received by the Agency and the Board on or before March 5. The Agency may file a response, to be received by the Board on or before March 12, to allow for disposition of all pending motions at the Board's March 14 meeting.

In the interim, the Board will grant an extension of the previous temporary stay through March 14. The Board believes that continued short term maintenance of the status quo is not inappropriate; the Agency's opposition to the motion for stay does not assert harm to the environment, focusing instead on IPC's likelihood of success on the merits and allegations of economic harm.

Finally, in the context of the motion to consolidate, the Board notes that hearing in PCB 85-155 is scheduled to commence tomorrow, February 27. The motion to consolidate is denied.

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 26<sup>th</sup> day of February, 1986, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board