

ILLINOIS POLLUTION CONTROL BOARD
May 28, 1981

ALLIANCE FOR A SAFE ENVIRONMENT, et al.)
)
) Petitioners,)
)
) v.) PCB 80-184
)
) AKRON LAND CORPORATION and the ILLINOIS)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondents.)


ORDER OF THE BOARD (by D. Satchell):

On May 18, 1981 Alliance for a Safe Environment and seven individual petitioners filed a motion to reinstate and award costs. The motion seeks modification of the Board's Order of May 14, 1981 which remanded this permit appeal to the Agency for revocation of the permit after the applicant admitted that there had been an error in the application. The petitioners agree with the result but seek costs pursuant to Procedural Rule 504. They note that the Board acted on the applicant's motion to cancel the permit without affording petitioners an opportunity to reply [Procedural Rule 308(c)]. The Board will consider the motion for costs on its merits as though it had been received prior to the Order to remand.

Procedural Rule 504 provides that the Board may allocate costs as it deems equitable. The error in the application resulted from an incorrect calculation made by a consulting engineer. There is no indication that there was any bad faith or lack of diligence on the part of the applicant or that the error was not promptly disclosed or that any delay in disclosure imposed additional costs on petitioners. Under the circumstances it would not be equitable to impose costs. The motion is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 28th day of May, 1981 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board