

ILLINOIS POLLUTION CONTROL BOARD
January 7, 1988

RIVERSIDE LABORATORIES, INC.,)
)
 Petitioner,)
)
 v.) PCB 87-62
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On December 9, 1987, Riverside Laboratories moved the Hearing Officer for a continuance of the hearing presently scheduled for February 10, 1988 to May 10, 1988. On December 29, 1987, the Agency filed a response in opposition accompanied by a motion for leave to file instanter, which motion is hereby granted. The Board itself is disposing of this motion pursuant to the request of the Hearing Officer.

The pleadings assert that some but not all issues arising in this permit denial appeal are pending in both state court and federal courts: whether Riverside is a "paper coater" subject to regulations.

Petitioner Riverside filed a declaratory judgment action against the Respondent Illinois Environmental Protection Agency in Kane County Circuit Court No. MR KA 86-0287 on October 22, 1986. The suit seeks a declaration as to whether or not Riverside Laboratories' operations constitute "paper coating" within the meaning of 35 Ill. Adm. Code Section 215.204(c) thus subjecting it to compliance with Illinois regulations governing paper coaters. The Agency filed its answer to this action on November 20, 1987. The pleadings do not indicate that the Circuit Court has made a ruling.

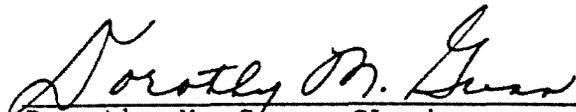
The United States Environmental Protection Agency (U.S. EPA) brought an enforcement action against Riverside for violations of the Clean Air Act, 42 U.S.C. Section 7401 et seq. and the Illinois State Implementation Program (Illinois SIP) in the Northern District of Illinois in November, 1986. In May 1987, Riverside filed this permit appeal before the Board after it was denied a permit renewal application by the Agency. Riverside moved to stay the federal action pending the outcome of this Permit appeal before the Board or the declaratory action pending

in State Court. No ruling has yet been made on the motion although it has been fully briefed.

The basis for Riverside's motion for continuance here is the pendency of the circuit court action in Kane County. The motion is hereby denied. In the event that either of the other fora in which this action is pending resolves issues pending here prior to Board resolution of this appeal, the Board trusts it will be so notified by the parties. The February 10, 1988 hearing shall proceed as scheduled.

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 7th day of January, 1988, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board