

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

RACT DEFICIENCIES -  
AMENDMENTS TO 35 ILL.  
ADM. CODE PARTS 211  
AND 215

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R 89-16(A)

NOTICE

TO: Dorothy Gunn, Clerk  
Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

Dan L. Siegfried, Hearing Officer  
Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

Katherine D. Hodge  
General Counsel  
Illinois Environmental  
Regulatory Group  
215 East Adams Street  
Springfield, Illinois 62701

PLEASE TAKE NOTICE that I have today filed with the Office of  
the Clerk of the Pollution Control Board the AGENCY MOTION TO STRIKE  
THE POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL REGULATORY  
GROUP

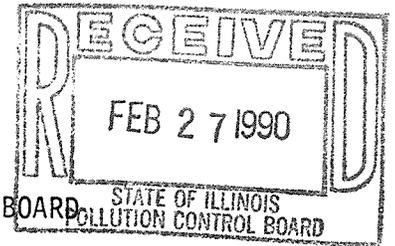
of the Illinois Environmental Protection Agency, a copy of which is  
herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY  
OF THE STATE OF ILLINOIS

BY: *Susan J. Schroeder*  
Susan J. Schroeder  
Attorney  
Enforcement Programs

DATE: February 26, 1990  
Agency File #:

2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276  
217/782-5511



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
FACT DEFICIENCIES -	)	R 89-16(A)
AMENDMENTS TO 35 ILL.	)	
ADM. CODE PARTS 211	)	
AND 215	)	

AGENCY MOTION TO STRIKE THE POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP

Now comes the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency") and moves the Illinois Pollution Control Board ("Board") to strike the Illinois Environmental Regulatory Group's ("IERG") Post-Hearing Comments, dated February 19, 1990.

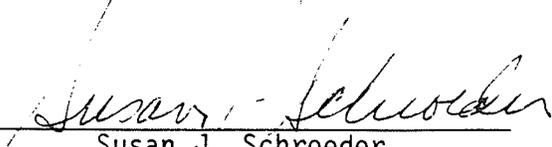
The Agency filed its post-hearing comments on time (mailed by February 9, 1990). The Agency received IERG's comments on February 21, 1990. IERG is seeking to file its post-hearing comments instanter. The Agency objects to the instanter. IERG states the reason for late filing is that the nature and substance of their comments were affected by the Board's ruling of February 8, 1990. However, there is nothing in IERG's comments that have any arguable connection to the Board's Order of February 8, 1990. IERG's comments on the appropriateness of the Board considering technical feasibility and economic reasonableness in a Section 28.2 rulemaking is an old argument in this docket. The discussion on statewide applicability could equally have been made at any prior time, was discussed at hearing, and is not in any way conditioned upon the February 8, 1990 Board Order. The Motion to File Instanter, in fact, does not even try to link any comments made in the IERG submittal to the decisions in the February Order.

It must be remembered that the Board itself ordered the deadline for filing written comments in this proceeding. If the Board's identified deadlines are to be taken seriously, the Board should allow late filings only if adequate justification is given. IERG's Motion to File Instantly gives no such justification. It is noteworthy that no other participant found it impossible to file in the appropriate time frame.

IERG's comments appear to be an excuse to allow it to comment on information presented in the Agency's written comments, which were submitted over a week prior to the IERG filing. IERG gains an unfair advantage by its late filing to comment on some of the points made in the Agency's final comments. This opportunity to reply to other participant's final comments was not given to the Agency or any other participant. Therefore, if the Board will not strike the entire post-hearing comment, at a minimum the last paragraph on page 4 and the first paragraph on page 5 should be stricken from the record. To do otherwise would perpetuate a long-standing problem in the Board's regulatory proceedings where a late-filed pleading is allowed an unfair advantage over those pleadings filed according to the Board's stated deadline.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Susan J. Schroeder  
Susan J. Schroeder

DATED: February 26, 1990

2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217)782-5544

STATE OF ILLINOIS     )  
                                  )  
COUNTY OF SANGAMON    )

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached  
AGENCY MOTION TO STRIKE THE POST-HEARING COMMENTS  
OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP

upon the person to whom it is directed, by placing a copy in an envelope  
addressed to:

Dorothy Gunn, Clerk  
Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
**(AIRBORNE EXPRESS)**

Dan L. Siegfried, Hearing Officer  
Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
**(AIRBORNE EXPRESS)**

Katherine D. Hodge  
General Counsel  
Illinois Environmental  
Regulatory Group  
215 East Adams Street  
Springfield, Illinois 62701  
**(FIRST CLASS MAIL)**

and mailing it from Springfield, Illinois on February 26,  
1990, with sufficient postage affixed as indicated above.

Mary D. McClemon

SUBSCRIBED AND SWORN TO BEFORE ME

this 26th day of February, 1990.

Barbara K. McGee  
Notary Public

