

ILLINOIS POLLUTION CONTROL BOARD  
July 19, 1990

|                        |   |                 |
|------------------------|---|-----------------|
| ESG WATTS, INC.        | ) |                 |
|                        | ) |                 |
| Petitioner,            | ) |                 |
|                        | ) |                 |
| v.                     | ) | PCB 90-95       |
|                        | ) | (Permit Appeal) |
| ILLINOIS ENVIRONMENTAL | ) |                 |
| PROTECTION AGENCY,     | ) |                 |
|                        | ) |                 |
| Respondent.            | ) |                 |

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on petitioner ESG Watts' motion to consolidate permit appeals, filed July 17, 1990. This motion, and the accompanying amended permit appeal, are filed in response to the Board's June 21, 1990 order directing ESG Watts to file an amended permit appeal. ESG Watts asks this Board to consolidate its appeal of the Illinois Environmental Protection Agency's (Agency) March 29, 1990 decision denying the application for an NPDES permit, and the appeal resulting from the Agency's June 29, 1990 denial of ESG Watts' RCRA Part B permit application. ESG Watts states that the two permit appeals arise from a coordinated permit review by the Agency, and contends that: 1) in order for the Board to appreciate the relationship and similarities of the permit applications and the Agency decisions, the permit appeals should be coordinated; 2) consolidation would best utilize the resources of the parties and of the Board; and 3) consolidation of the appeals would create no prejudice to ESG Watts and would enable the Board to make a complete determination of the issues in one setting.

The motion to consolidate is denied. The Board recognizes that many of the issues involved in both appeals are related; however, the two appeals involve RCRA and NPDES, two different statutory schemes. The basic issue in every permit appeal is whether the permit application, as submitted to the Agency, demonstrates that issuance of the permit will not result in a violation of the Environmental Protection Act or the Board's regulations. The Agency decisions at issue here result from two separate applications, and are based upon separate and distinct areas of Board regulations. Therefore, the permit appeals will not be consolidated.

Based upon the statements in ESG Watts' amended permit appeal, the Board finds that this docket (PCB 90-95), filed May 7, 1990, is an appeal of the Agency's March 30, 1990 denial of the NPDES


application. As stated in the Board's June 21 order, the filing of the amended petition restarts the statutory time period for decision on the NPDES permit appeal. That decision period began on July 17, 1990. The Board has not yet received a formal appeal of the Agency's June 29, 1990 denial of the RCRA permit. If the Board receives a timely appeal of the Agency's denial of the RCRA permit, it will assign both cases to the same hearing officer, so that the hearings on both appeals can be held on the same day.

Finally, the Board notes that the Agency's time to respond to the motion to consolidate has not yet expired. Because the Board did not grant the motion, but denied it, taking action on the motion at this time does not violate Section 101.241(b) of the Board's procedural rules.

IT IS SO ORDERED.

J. Anderson and J. Marlin were not present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 17th day of July, 1990, by a vote of 5-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board