

ILLINOIS POLLUTION CONTROL BOARD
February 28, 1974

INTERLAKE, INC.,)
)
 Petitioner,)
)
 v.) PCB 73-462
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

ORDER (By Mr. Henss)

On February 11, 1974 Petitioner filed Motion for Default alleging that the Agency's failure to file Recommendation was in violation of Statute and Regulation and has made it impossible to proceed with the case. Subsequently on February 25, 1974 the EPA did file its Recommendation. The Recommendation was late by any standard. It was filed 116 days after the variance petition, 67 days after an order of the hearing officer stated that the "absence of the Agency's Recommendation has made it impossible to proceed", and 14 days after the Motion for Default. We do not condone the delay caused by the Agency.

Nevertheless the Motion for Default will be denied. We cannot decide these cases as if they were merely private disputes between the Petitioner and an individual Respondent. The rights of the public are to be protected and we do not wish to preclude input to this action which may bear upon the rights of the public. Therefore we will consider the information submitted by the Agency along with information submitted by Respondent in making our decision.

If the lateness of filing has caused some prejudice to Petitioner in the handling of its case we will entertain an appropriate motion for continuance in order to give reasonable time for the preparation of Petitioner's evidence.

It is ordered that the Petitioner's Motion for Default be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 28th day of February, 1974 by a vote of 5 to 0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board