

ILLINOIS POLLUTION CONTROL BOARD  
November 11, 1971

In the Matter of )  
 ) # R71-21  
ADMISSIONS AND TRANSCRIPTS )

Opinion of the Board (by Mr. Currie):

The business of hearing individual pollution cases has become both expensive and unnecessarily time-consuming. Despite an increase in our budget for fiscal 1972, we have already incurred expenses for transcripts far in excess of those our budget can bear over the entire year. In a number of recent cases the hearings have been unnecessarily protracted, with excessive time spent in proving facts not substantially in dispute. We believe one way to encourage the stipulation of such facts, thus saving the time and money of all concerned, is to adopt the equivalent of Supreme Court Rules 216 and 219, which require a party to pay the cost of proving any fact he unreasonably refused to stipulate. We published notice of this proposed rule in September and again, with copies attached on October 13, allowing until November 10 for public comments. Because of doubts raised as to the companion provision that would have required petitioners in variance and permit cases to pay the cost of transcripts, we have deferred action on that part of the proposal pending other efforts to solve the money problem.

ORDER

Chapter 1 of the Rules and Regulations of the Illinois Pollution Control Board is hereby amended by adding the following provisions:

313 1/2 Admissions.

(a) Request for Admission of Fact. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request.

(b) Request for Admission of Genuineness of Document. A party may serve on any other party a written request for admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

(c) Admission in the Absence of Denial. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 20 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party deny only a part, or requires qualification, of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder. Any objection to a request or to an answer shall be heard by the Hearing Officer upon prompt notice and motion of the party making the request.

(d) Effect of Admission. Any admission made by a party pursuant to request under this rule is for the purpose of the pending action only. It does not constitute an admission by him for any other purpose and may not be used against him in any other proceeding.

(e) Expenses of Refusal To Admit. If a party, after being served with a request to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter of fact, he may apply to the Hearing Officer for an order requiring the denying party to pay him the reasonable expenses incurred in making the proof, including reasonable attorney's fees. Unless the Hearing Officer finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

I, Christan Moffett, Acting Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 11 day of August, 1971.

