

ILLINOIS POLLUTION CONTROL BOARD  
February 28, 1991

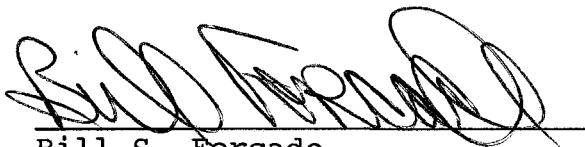
SEXTON ENVIRONMENTAL SYSTEMS, INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 91-4  
 ) (Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

DISSENTING OPINION (by B. Forcade):

I respectfully dissent from today's order. I would have denied the motion for extension of time to respond to the motion for summary judgment. I would have held that the matter was ripe for summary disposition because Sexton had not asserted any contested issues of fact, nor had Sexton denied the Agency's assertion that there is no contested issue of material fact. I would have allowed Sexton time to file a brief responding to the legal issues raised by the Agency, but would have cancelled the hearing in today's order.

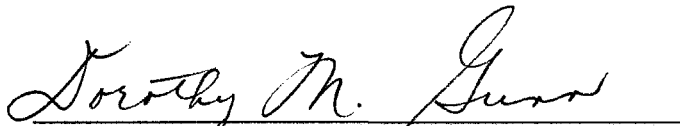
Today, the Board adopted orders in administrative citation cases where the "costs" of a hearing are assessed. A typical case, AC 90-42, IEPA v. Robert Wheeler, imposed costs of \$1,100.40. This represents the court reporter and hearing officer costs for a reasonably short hearing and does not include the costs of publication of notice of hearing, copying of the transcripts, and various other costs incurred by the Board with a hearing. In this time of very tight budgets, the Board is simply unable to fulfill all its hearing obligations as they arise. In some proceedings, the Board must encourage the petitioners to waive the decision deadline until fiscal 1992, though the participants may be greatly inconvenienced by lack of a rapid hearing and decision. In proceedings that lack a statutory default deadline the hearings may have to be deferred though the participants may need a rapid hearing and decision. All this effort juggling the hearing schedules is necessary to ensure that no permit review decision is deemed granted by operation of law (See for example Section 40(a)(2) of the Act).

In such circumstances, the Board must work hard to eliminate unnecessary hearings. Here, Sexton has not made a case that hearing is necessary.



Bill S. Forcade  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 4<sup>th</sup> day of March, 1991.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board