

ILLINOIS POLLUTION CONTROL BOARD  
November 21, 1996

RIVERSIDE LABORATORIES, INC., )  
)  
Petitioner, )  
)  
v. ) PCB 90-165  
) (Permit Appeal - Air)  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by J. Yi):

On November 15, 1996 petitioner, Riverside Laboratories Inc., filed a motion to dismiss its appeal of the Illinois Environmental Protection Agency's (Agency) denial of an operating permit. As a result of a change in the Federal Implementation Plan for the Chicago non-attainment area and subsequent corresponding changes to the Board regulations and the State's Implementation Plan the Agency issued the operating permit on August 26, 1996. Petitioner states "[w]ith issuance of this permit, Riverside is not aware of any justiciable (sic) controversy for the Board to adjudicate." Petitioner requests the Board to grant the motion to dismiss this permit appeal without prejudice.

Under Section 40 of the Act (415 ILCS 5/40 (1994)) an appeal must be filed within 35 days of the date of Agency's decision. Thus, a subsequent petition would be time barred. (See Metropolitan Airport Authority of Rock Island v. Office of State Fire Marshal, (March 31, 1994), PCB 94-45.) Therefore the Board grants the motion to dismiss and closes the docket. However, the request to dismiss without prejudice is denied.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, by a vote of \_\_\_\_\_.

\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board