

ILLINOIS POLLUTION CONTROL BOARD
February 16, 1995

NICHOLS ALUMINUM,)	
)	
Petitioner,)	
)	
v.)	PCB 94-85
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. McFawn):

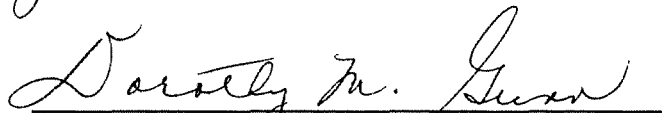
This matter is before the Board pursuant to a December 30, 1994 voluntary withdrawal of permit appeal filed by Nichols Aluminum (Nichols). The following additional filings were then received: the Illinois Environmental Protection Agency (Agency) filed a response to the motion on January 10, 1995; Nichols filed a reply on January 23, 1995; the Agency filed a motion to strike reply on January 30, 1995; and Nichols filed a response to the motion to strike reply on January 31, 1995.

In its motion for voluntary withdrawal, Nichols requests that the motion be granted without prejudice. The subsequent filings all address the issue of whether the motion should be granted with or without prejudice. However, under Section 40 of the Environmental Protection Act (415 ILCS 5/40(1992)), a permit appeal must be filed within 35 days of the permit denial. Since the permit denial was issued February 4, 1994, a subsequent petition for review would now be time barred.

The motion for voluntary dismissal is hereby granted and this docket is closed.

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 16th day of February, 1995, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board