

ILLINOIS POLLUTION CONTROL BOARD
September 8, 1988

JEFFERSON SMURFIT CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 88-112
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On August 19, 1988, the Illinois Environmental Protection Agency ("Agency") filed a motion to strike.

The Board Orders that the parties simultaneously brief the following issues in this matter:

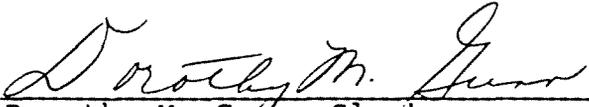
1. Whether the proceeding Alton Packaging Corporation v. IEPA, PCB 85-146, currently pending in the United States Supreme Court, has sufficient nexus with the instant proceeding to remove the Board's jurisdiction to act here?; and
2. If the Board does have jurisdiction to act, whether the theory articulated in Caterpillar Tractor Co. v. IEPA, PCB 79-180, July 14, 1983 [citing Alburn, Inc. v. IEPA, PCB 81-23] requires the Board to dismiss the permit appeal filed in PCB 88-112?

The Board would anticipate that any facts necessary to argument on the above issues would be supported by affidavit or other indication of accuracy.

The initial brief by the Agency and Smurfit shall be filed not later than September 30, 1988. Any reply shall be filed not later than October 17, 1988. Today's Order is not intended to impair the obligations for expeditious hearing in any way.

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 8th day of September, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board