

ILLINOIS POLLUTION CONTROL BOARD
May 21, 1992

ESG WATTS, INC.,)
)
 Petitioner,)
)
 v.) PCB 92-54
) (Permit Appeal)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on a May 14, 1992 motion to file the permit record instanter filed by the Illinois Environmental Protection Agency (Agency). This petition was filed with the Board on April 8, 1992, and the Agency asserts that it received notice of the petition on April 14, 1992. Pursuant to 35 Ill. Adm. Code 105.102(a)(4), the Agency record is to be filed with the Pollution Control Board within 14 days "upon notice of the petition". The permit record was therefore due to be filed on April 28, 1992. This motion and the permit record were filed 29 days after the Agency received notice of petitioner's appeal, and are 15 days late.

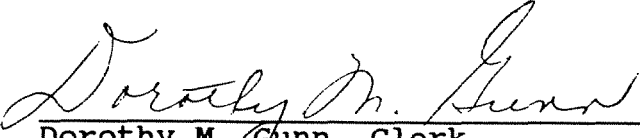
Because the Act requires the Board to consider the Agency record in making its decision, the Agency's motion to allow filing of the Agency permit record instanter is hereby granted.

On May 15, 1992, the Agency filed a "response to petition for review and motion to dismiss" the petition. The basis for the motion is ESG Watts' alleged failure to comply with the informational requirements of 35 Ill. Adm. Code 105.102(a)(2). On May 20, 1992, ESG Watts filed an objection to the Agency's filing.

The Agency's motion to dismiss is denied. The petition contains sufficient information to satisfy Section 105.102(a)(2), and to apprise the Agency of the basis for the appeal. Hearing shall be scheduled and held consistent with the Board's Order of April 23, 1992.

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 21st day of May, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board