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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

CONFORMING AND TECHNICAL R00-18
AMENDMENTS TO (Rulemaking - Land)
35 ILL. ADM. CODE 809

Proceedings held on May 18, 2000, at 9:30 a.m., at the
Illinois Pollution Control Board, 600 South Second Street, Suite
403, Springfield, Illinois, before the Honorable Joel J.
Sternstein, Hearing Officer.

Reported by: Darlene M. Niemeyer, CSR, RPR
CSR License No.: 084-003677

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A P P E A R A N C E S

Nicholas J. Melas, Board Member

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: Kimberly A. Geving
Daniel Merriman
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
On behalf of the Illinois EPA.

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I N D E X

WITNESS	PAGE NUMBER
David Walters	7

E X H I B I T S

NUMBER	MARKED FOR I.D.	ENTERED
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(No exhibits were marked.)

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1 P R O C E E D I N G S

2 (May 18, 2000; 9:30 a.m.)

3 HEARING OFFICER STERNSTEIN: Good morning. My name is Joel
4 Sternstein. I have been appointed by the Pollution Control Board
5 to serve as Hearing Officer in this proceeding, which is
6 entitled, In the Matter of: Conforming and Technical Amendments
7 to 35 Illinois Administrative Code Part 809. The docketing
8 number for this rulemaking is R00-18.

9 Sitting next to me is Nicholas Melas, the Board Member
10 assigned to this matter, and also present from the Board is Karen
11 Conley, our rulemaking coordinator.

12 For the record, today's date is May 18th, 2000, and it is
13 approximately 9:32 a.m. This is a rulemaking subject to the
14 Board's procedural rules and, therefore, all relevant,
15 nonrepetitious and nonprivileged testimony will be heard at this
16 second hearing of the proceeding. This matter was filed on
17 February 29th, 2000, by the Board, and the first hearing in this
18 matter was held on April 20th, 2000, in Chicago.

19 As was discussed at the April 20th hearing, the Board is
20 reserving time at today's hearing for comments on the decision by
21 the Department of Commerce and Community Affairs, DCCA, to not
22 conduct an Economic Impact Statement, or ECiS, for this rule.
23 Pursuant to Public Act 90-489 the Board is required to request
24 DCCA to conduct an ECiS on certain proposed rules prior to the

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1 adoption of those rules. If DCCA chooses to conduct the ECiS,
2 DCCA has 30 to 45 days after such a request to produce a study of
3 the proposed rules. The Board must then make the ECiS or DCCA's
4 explanation for not conducting the study available to the public
5 at least 20 days before public hearing on the economic impact of
6 the proposed rules.

7 In accordance with Public Act 90-489, on March 21st, 2000,
8 the Board requested that DCCA conduct an ECiS for Docket R00-18.
9 In the request the Board stated that if it did not receive a
10 reply from DCCA within ten days, it would rely on a March 10th,
11 2000, letter from DCCA. That March 10th, 2000, DCCA letter
12 notified the Board that DCCA lacked the technical and financial
13 resources to respond to any rulemakings. The Board did not
14 receive a reply from DCCA within the ten day period.
15 Accordingly, the Board relies on the March 10th, 2000, DCCA
16 letter as an explanation for no ECiS being submitted for this
17 Docket R00-18.

18 Public Act 90-489 also requires the Board to have a hearing
19 on either the ECiS or DCCA's decision not to perform an ECiS.
20 Thus, pursuant to the Hearing Officer order in this matter, dated
21 March 31st, 2000, we will hear testimony from anyone who wishes
22 to comment on DCCA's decision not to conduct an ECiS for R00-18.

23 For the record, I would like to note that there are four
24 employees of the Illinois Environmental Protection Agency here.

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1 Would you please identify yourselves for the record.

2 MR. DRAGOVICH: My name is Ted Dragovich. It is spelled
3 D-R-A-G-O-V-I-C-H.

4 MR. WALTERS: I am Dave Walters.

5 MR. MERRIMAN: Dan Merriman.

6 MS. GEVING: Kim Geving.

7 HEARING OFFICER STERNSTEIN: Continuing, Board Member
8 Melas, I understand that you have some ECiS type questions for
9 the members of the Agency who are assembled here. As he will be
10 asking some questions and the members of the Agency will be
11 responding to those questions, why don't we go ahead and swear
12 all of you in right now, and then we will proceed with the
13 questioning.

14 MS. GEVING: Including me?

15 HEARING OFFICER STERNSTEIN: Are you going to be answering
16 the questions?

17 MS. GEVING: No.

18 HEARING OFFICER STERNSTEIN: Okay. Then I guess the other
19 three here.

20 (Whereupon Mr. Dragovich, Mr. Walters and Mr. Merriman were
21 sworn by the Notary Public.)

22 HEARING OFFICER STERNSTEIN: Board Member Melas, take it
23 away.

24

BOARD MEMBER MELAS: Thank you very much, Mr. Sternstein.

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1 I have questions in two general areas. One, the anticipated
2 affect on state expenditures and revenues, and the other general
3 area would be economic affect on persons affected by the
4 rulemaking.

5 Can you give me an estimate or a statement as to what the
6 current cost of the Agency for this program or activity would be?

7 MR. WALTERS: Our cost to the Agency would continue similar
8 to what they have been in the past because we would continue to
9 provide special waste hauler permitting and uniform hazardous
10 waste permitting to other transporters. This would not impact
11 the amount of work that those activities would take.

12 BOARD MEMBER MELAS: So the second part of this question
13 has really been answered, because if it would result in an
14 increase or a decrease with the specified fiscal year in which
15 the change would occur, so you are saying actually it would not
16 affect it one way or the other. The funding source, including
17 the fund, would be the same, I presume?

18 MR. WALTERS: Pardon me?

19 BOARD MEMBER MELAS: The funding source, there would be no
20 impact on any particular funding source?

21 MR. WALTERS: We do not -- the funding source for providing
22 the permits would not adversely be affected. We do not expect
23 any significant impact in a decrease in the amount of fees we

24 would collect.

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1 BOARD MEMBER MELAS: Okay. Let me go to the second general
2 area, then, the economic affect on persons affected by the
3 rulemaking. Would there be any positive, negative or no affect
4 on persons involved?

5 MR. WALTERS: There would be a slightly positive impact to
6 the regulated community. Over the 20 years or so that we have
7 been providing transportation permits, we have had -- we have not
8 kept track, but we have had a few periodic questions about
9 transporting waste off site, and to those few regulated persons
10 it would save them from purchasing some type of hauler permit or
11 the manifest that would be needed with it.

12 BOARD MEMBER MELAS: So there really would be no
13 significant economic affect?

14 MR. WALTERS: We do not believe that there would be a
15 significant economic affect, that's correct.

16 BOARD MEMBER MELAS: Would it have any indirect affect that
17 may result in increased administrative costs, such as additional
18 requirements, filing documentation, reporting and completion of
19 forms?

20 MR. WALTERS: No.

21 BOARD MEMBER MELAS: It would not?

22 MR. WALTERS: It would not, and it would -- those regulated

23 persons that would no longer be required to permit with us would
24 also be relieved of any type of annual reporting that would be

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1 required, but we do not feel that would be significant.

2 BOARD MEMBER MELAS: That covers the questions that we were
3 to address, and I thank you very much for your answers.

4 HEARING OFFICER STERNSTEIN: Does anybody else have any
5 questions for the members of the Agency assembled?

6 Seeing none, I am going to request that we recess for
7 approximately ten minutes but stay convened in case someone from
8 the public arrives late and has questions to ask. So it is now
9 9:40, and we will stand in recess until 9:50.

10 (Whereupon a short recess was taken.)

11 HEARING OFFICER STERNSTEIN: Okay. Let's go back on the
12 record. Does anybody else have any further comments on this
13 rulemaking, R99-18, or the decision by DCCA not to conduct an
14 ECiS?

15 Okay. Requests for additional hearings will be accepted
16 pursuant to the Board's procedural rules at 35 Illinois
17 Administrative Code 102.161, which require the proponent or any
18 other participant to demonstrate in a motion to the Board that
19 failing to hold an additional hearing will result in material
20 prejudice to the movant.

21 The transcript from this hearing should be available before
22 the end of May. If anyone would like a copy they can speak to

23 the court reporter directly, or you can get a hard copy by
24 contacting the Clerk's office in Chicago, which will cost 75

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1 cents a page, or you can download the transcript from the Board's
2 website, or you can call me.

3 Public comments in this matter must be filed by June 16,
4 2000. The mailbox rule will apply. Anyone may file public
5 comments with the Clerk of the Board. You must simultaneously
6 deliver your comments to all persons on the service list and
7 include an attached notice sheet, a proof of service, and a copy
8 of the current service list. You should contact the Clerk's
9 office to make sure you have an updated service list.

10 If there is no one else present here today who would like
11 to testify, I will conclude today's hearing. Thank you all very
12 much for your time and attention. The hearing is adjourned.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

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5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 10 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 18th of May A.D., 2000,
9 at 600 South Second Street, Suite 403, Springfield, Illinois, In
10 the Matter of: Conforming and Technical Amendments to 35 Ill.
11 Adm. Code 809, in proceedings held before the Honorable Joel
12 Sternstein, Hearing Officer, and recorded in machine shorthand by
13 me.

14 IN WITNESS WHEREOF I have hereunto set my hand and affixed
15 my Notarial Seal this 22nd day of May A.D., 2000.

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Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

CSR License No. 084-003677
22 My Commission Expires: 03-02-2003

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