

ILLINOIS POLLUTION CONTROL BOARD
March 9, 1989

IN THE MATTER OF:)
)
AMEROCK CORPORATION,)
ROCKFORD FACILITY, SITE-)
SPECIFIC RULEMAKING PETITION) R87-33
FOR AMENDMENT TO 35)
ILL. ADM. CODE PART 304,)
SUBPART B)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a February 14, 1989 motion by petitioner Amerock Corporation. Amerock asks that the Board make a determination that an economic impact study (EcIS) should not be prepared in this rulemaking. Neither the Department of Energy and Natural Resources (ENR) nor any other participant has filed a response to Amerock's motion.


Amerock filed its petition for site-specific rulemaking on August 24, 1987. A merit hearing has been held, and briefs have been submitted to the Board. On April 19, 1988, ENR informed the Board that it had determined that an EcIS would be undertaken. The contract for the preparation of the EcIS has not been issued, apparently because ENR is out of funds for this fiscal year for preparation of the EcIS. Amerock now moves the Board to exercise its new authority to determine whether an EcIS is necessary, and to conclude that an EcIS is not needed in this rulemaking. Amerock recognizes that ENR has already made a determination that an EcIS is needed, and admits that the Board has previously stated that a final determination reached by ENR before December 31, 1988 is conclusive in that proceeding. See Application of Procedural Amendments of P.A. 85-1048 to Newly filed and Pending Regulatory Proceedings, RES 89-1 (January 5, 1989). However, Amerock contends that the recent amendments giving the Board the authority and duty to make EcIS determinations were intended to expedite rulemakings, and that this intent will be thwarted if the Board does not reject ENR's previous determination that an EcIS should be performed. Amerock also points out that it is potentially susceptible to enforcement actions while this rulemaking is pending. Finally, Amerock maintains that its pending request for a variance (PCB 87-131) may be severely jeopardized if action on the rulemaking cannot be taken in the near future.

The Board shares Amerock's frustration that no final action can currently be taken on this rulemaking pending receipt of an EcIS which has not even been started yet. However, the Board has

not changed its position that EcIS determinations made by ENR before December 31, 1988 are final. Therefore, Amerock's motion is denied. The Board notes, however, that it clearly has authority to make EcIS determinations on all regulatory proposals filed after January 1, 1989.

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 9th day of March, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board