

ILLINOIS POLLUTION CONTROL BOARD  
January 11, 1990

THE JENNISON-WRIGHT CORP., )  
 )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 89-189  
 ) (Permit Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by B. Forcade):

On December 4, 1989, the Illinois Environmental Protection Agency ("Agency") filed a motion for dismissal of permit appeal as being late filed. On December 14, 1989, Jennison-Wright Corporation ("Jennison-Wright") filed a stipulated motion for extension of time in which to respond to respondent's motion to dismiss. The Board granted the motion for extension of time to respond at its December 20, 1989 Board meeting.

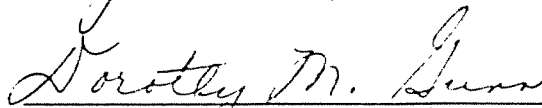
On December 28, 1990, Jennison-Wright filed its brief in opposition to respondent's motion for dismissal of permit appeal, arguing that a petition under Chapter 11 of the Bankruptcy Code extended the filing deadline. Since the Agency has not addressed the Bankruptcy Code issue, the Board Orders the Agency to reply to the Jennison-Wright brief not later than February 2, 1990.

The Board notes that the brief filed by Jennison-Wright relies in large part on unverified allegations of fact. The Board questions whether the motion to dismiss might more properly be addressed after the hearing process has allowed the underlying factual matter to be developed.

IT IS SO ORDERED

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 11<sup>th</sup> day of January, 1989, by a vote of 6-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board