

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 1990

ESG WATTS, INC., )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 90-95  
 ) (Permit Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Marlin):

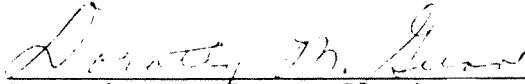
This matter is before the Board on the Illinois Environmental Protection Agency's ("Agency") Motion to Strike filed May 29, 1990. The motion seeks to strike "extraneous facts and exhibits" from petitioner's permit appeal. The Agency states that the present appeal concerns denial of a NPDES water construction permit while the petitioner's pleading contains repeated references to an unrelated RCRA permit application which allegedly is still pending before the Agency.

Our examination of the permit appeal filed by the petitioner shows that the petitioner alleges that it is seeking relief from "the decision of the ... AGENCY, rendered March 30, 1990, denying ESG WATTS, INC. an (sic) RCRA Part B Permit ...". A majority of petitioner's allegations also relate to a RCRA permit denial. However, the denial letter attached clearly pertains to an NPDES permit.

The permit appeal and its supporting exhibits are clearly at odds. Because petitioner's misplaced allegations are so interwoven with the balance of the permit appeal we cannot clearly determine what the true subject matter of this appeal is. Therefore, the Board grants the Agency's motion and strikes paragraphs 1, 2 and 4 of the permit appeal and Exhibit #2 attached thereto. Because the status of the pleadings after these steps are taken becomes questionable, the petitioner is given leave to file an amended permit appeal within 30 days; that petition will restart the statutory time period for decision.

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 21<sup>st</sup> day of June, 1990, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board