

ILLINOIS POLLUTION CONTROL BOARD
May 25, 1989

IN THE MATTER OF:)
)
J & R LANDFILL, INC.,) AC 89-18
) (89-1 SC St. Clair
Respondent.) County Docket)

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on a Motion for Reconsideration filed May 16, 1989 by Respondent J & R Landfill, Inc. Respondent urges the Board to reconsider its May 11, 1989 denial of Respondent's Motion to Dismiss filed May 8, 1989.

On May 15, 1989, Mr. Todd S. Parkhurst, the Board's Hearing Officer in this proceeding, entered an Order Cancelling Hearing. The gist of that Order was that, in view of the pending Motion for Reconsideration (which the Hearing Officer concluded is not frivolous), the hearing set for May 17, 1989, was cancelled. The Order stated that any new hearing date will be set after the Board rules on the pending Motion for Reconsideration. Further, the Order provided that, absent a contrary Board Order, the Hearing Officer "urges" the State's Attorney of St. Clair County to file its Answer Brief before May 24, 1989, and the Respondent to file its reply brief by May 31, 1989.

On May 24, 1989, the State's Attorney of St. Clair County transmitted to the Board an electronic facsimile ("fax") of an Answer Brief. No Certificate of Service was included, and no such proof of service has been since provided.

The Board declines to accept for filing the County's Answer Brief. The Board's procedural rules (35 Ill. Adm. Code 103.123) require that respondents be served personally or by registered or certified mail, and that proof of service be provided to this Board. Such proof is absent here. Regarding filing by "fax", the Board herein directs that future filing of documents with the Board shall be by mail or in person unless specific authorization has previously been granted by the Board for use of electronic facsimiles. See 35 Ill. Adm. Code 101.103.

In view of the foregoing, the Board will revise the Hearing Officer's recommended briefing schedule. The State's Attorney of St. Clair County shall file its Answer Brief no later than Thursday, June 1, 1989; the reply brief shall be filed by Thursday, June 8, 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 25th day of May, 1989, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board