

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1987

GERALD CLUTTS AND LEE SIEGFRIED,)
)
 Petitioners,)
)
 v.) PCB 87-49
)
 HERMAN L. BEASLEY,)
)
 Respondent,)
)
 and)
)
 ALEXANDER COUNTY BOARD OF)
 COMMISSIONERS,)
)
 Co-Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On April 30, 1987, the Board issued an Order directing the Clerk of Alexander County to prepare and file the County's record concerning Herman Beasley's application for site location suitability approval. The County Clerk was also directed to prepare and file a "Certificate of Record On Appeal" listing the documents comprising the record. Seven copies of the transcript, seven copies of the certificate, and three copies of any other documents contained in the record were due to be filed on or before May 21.

There has been no filing made which responds to the requirements of this Order. However, on June 10, 1987, the Board received an express mail package containing a single copy of miscellaneous documents. There was no notice of filing and no Certificate of Record signed by the County Clerk. Some of these documents are captioned PCB 87-49, and are documents which have been filed with the Board since Mr. Clutts and Mr. Siegfried filed this appeal: the Board does not need additional copies of any documents which have been issued by or filed with the Board since this appeal was started.

What the Board does need is the specified number of copies of all documents which were filed with the County between the time Mr. Beasley filed his application and the County took its vote to approve the application on March 19, 1987. While it would appear that some of the loose and unlisted documents the Board received on June 10 are indeed part of the County Record, some documents are obviously missing, such as the transcript of

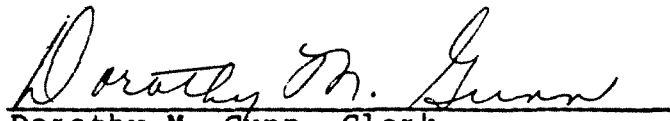
the County's public hearing held on January 29 and a copy of the County's Resolution. The listing of what documents are included in the county record is also essential.

The fact that this filing is so late and incomplete causes several practical problems. Hearing is scheduled to commence on June 16, and this starting date cannot be delayed, to avoid jeopardizing the Board's ability to make its decision within the statutory 120 day time period. The Board sees only one course of action to put this matter back on track. The Clerk of the Board is directed to return the miscellaneous documents received today to the Clerk of Alexander County. The Clerk of Alexander County is ordered to appear at hearing on June 16 with a proper Certificate of Record and the required copies of all the documents which comprise the County record. The Hearing Officer shall convene the hearing as scheduled. He is, however, authorized to continue the hearing on the record for a period of no longer than 7 days (absent a waiver of the decision deadline by Mr. Beasley) if such action is necessary to avoid any prejudice which may be alleged to result from the County's late filing.

Finally, given the short time periods here involved, the Clerk of the Board is requested to orally inform the Alexander County Clerk and the Hearing Officer of the content of this Order, and to provide service to the parties by first class as well as certified mail. The Clerk of the Board is also directed to provide a sample Certificate of Record to the Alexander County Clerk who, the Board suggests, might be well advised to seek advice of counsel to insure that he complies with this Order.

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 10th day of June, 1987, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board