

ILLINOIS POLLUTION CONTROL BOARD
September 8, 1983

BROWNING-FERRIS INDUSTRIES)	
OF IOWA,)	
)	
Petitioner,)	
)	
v.)	PCB 83-85
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Anderson):

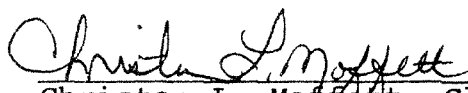
On August 4, 1983 the Agency moved for leave to file the record (due to be filed July 28, 1983) instanter. On September 8, Browning-Ferris moved for dismissal of this action and for entry of judgment in its favor, based on the Agency's untimely filing of this record.

The Agency's motion is granted, and Browning-Ferris' motion is denied. The Environmental Protection Act does not speak to the time of filing of the Agency record in a permit appeal. The time for filing is, however, prescribed by the Board in 35 Ill. Adm. Code 105.102(a)(4). The Board can, of course, waive its own procedural requirements, and sees no reason not to do so here. Browning-Ferris has not even alleged that any material prejudice will flow from Board acceptance of this late filing, let alone making a showing to support entry of a "default judgment".

IT IS SO ORDERED.

Board Member J.T. Meyer dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of September, 1983 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board