ILLINOIS POLLUTION CONTROL BOARD
June 16, 1983

NAUVOO MILK PRODUCTS, INC., Petitioner,	)	
v.	)	PCB 83-66
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	

ORDER OF THE BOARD (by J.D. Dumelle):

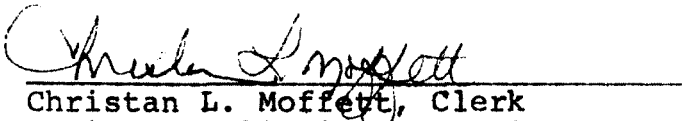
This matter comes before the Board upon a May 31, 1983 motion to dismiss filed by the Illinois Environmental Protection Agency (Agency). That motion is premised upon Nauvoo Milk Products, Inc.'s late filing of its petition for review of the Agency's permit denial. Such petition is to be filed within 35 days of the date the denial is mailed by the Agency [35 Ill. Adm. Code 105.102(a)(2)]. Nauvoo filed a response on June 6, 1983.

While the Agency's denial letter is dated April 8, 1983, no proof has been submitted that it was actually mailed on that date. Therefore, the Board cannot find that Nauvoo's May 16, 1983 filing was untimely. Further, even if such proof were made, under the facts presented, the Board would be reluctant to grant the Agency's motion.

The motion to dismiss is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Order was adopted on the 16th day of June, 1983 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board