

ILLINOIS POLLUTION CONTROL BOARD
October 15, 1998

IN THE MATTER OF:)
)
PERMITTING PROCEDURES FOR THE) R99-8
LAKE MICHIGAN BASIN: 35 ILL. ADM.) (Rulemaking - Water)
CODE 301 AND 309.141)

ORDER OF THE BOARD (by G.T. Girard, C.A. Manning, and N.J. Melas):

On September 29, 1998, the Illinois Environmental Regulatory Group (IERG) filed a motion to dismiss this rulemaking. On October 1, 1998, the Illinois Attorney General (AG) filed a motion for extension of time to respond to the IERG motion. At the hearing in this rulemaking on October 5, 1998, Whitney Wagner Rosen, the attorney representing IERG, verbally requested that the Board rule expeditiously on their motion to dismiss.

In the motion to dismiss, IERG argues that certain aspects of the Illinois Environmental Protection Agency's (Agency) rulemaking proposal are beyond the authority of the Board, or, in the alternative, the proposal is presented without technical or economic justification.

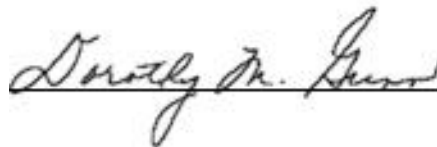
At this point in the proceeding it would be premature for the Board to rule on the issues raised by IERG. The Board has completed only one public hearing, and has a second hearing scheduled for December 8, 1998. The Board believes that in fairness to all parties in this proceeding, it should continue with the second hearing and thereafter address the issues raised by IERG's motion in the context of a written Board opinion in response to the rulemaking proposal.

Therefore, the Board declines to rule on IERG's motion to dismiss at this time. The AG's motion for extension of time is granted and the response will be due November 17, 1998. The Board welcomes written comments from other parties addressing the issues raised by IERG in the motion to dismiss.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of October 1998 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board