

ILLINOIS POLLUTION CONTROL BOARD  
August 5, 1993

J & M PLATING, INC., )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 93-73  
 ) (Permit Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Anderson):

On July 19, 1993, J & M Plating, Inc. (J & M) filed a motion requesting the Board to supplement the Agency's record with several group exhibits. On July 20, 1993 J & M filed a motion requesting the Board to allow it to file a limited number of copies of the motion to supplement and accompanying exhibits. The Illinois Environmental Protection Agency (Agency) has not responded to either motion.

In support of its motion to supplement, J & M states that, in order to complete the Agency's record, it is necessary to incorporate into the record several group exhibits. The exhibits contain documents regarding an earlier cleanup on the site involved in this matter. (Group Exs. A-P.) J & M also asserts that the exhibits "...will allow [the] Board to find that the condition of the property today is consistent with the condition of the property at the time the [Agency] issued its permit to J & M based upon a cleanup and closure that the [Agency] itself directed.

In its motion to file a limited number of copies, J & M states that the exhibits comprise 350 pages. In order to minimize the amount of paper used, J & M requests that it be allowed to file an original and three copies of the motion to supplement and accompanying exhibits with the Board. J & M also states that it will submit two copies of the motion and exhibits to the Agency and one copy of the motion and exhibits to the hearing officer.

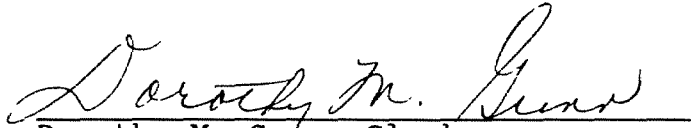
It is well settled that the Agency record in a permit appeal consists only of the information which the Agency considered or should have considered when making its permitting decision. Alton Packaging Corp. v. PCB (5th Dist. 1987), 162 Ill. App. 3d 731, 516 N.E.2d 275, 280; Joliet Sand & Gravel v. IPCB (3rd Dist. 1987), 163 Ill. App. 3d 830, 516 N.E.2d 955, 958; EPA v. PCB (1st Dist. 1983), 118 Ill. App. 3d 772, 455 N.E.2d 188, 194; American Waste Processing, Ltd. v. IEPA (October, 1992), PCB 91-38 at 1, 136 PCB 209; CMW Chemical Services, Inc. v. IEPA (July 11, 1991),

PCB 89-177 at 1, 124 PCB 29. It appears from J & M's assertions that the exhibits may have a bearing on this matter and that the Agency should possibly have considered the documents at issue when making its permit decision. Moreover, 35 Ill. Adm. Code 101.241(b) provides that a party shall be deemed to have waived its objection to the granting of the motion if it does not file a response to the motion.

Accordingly, the Board hereby grants J & M's motion to supplement the record with Group Exhibits A-P as well as the motion to file a limited number of copies. The Board wishes to emphasize, however, that it is not inferring that it has hereby determined that the information contained in the exhibits is relevant to this matter.

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 54 day of August, 1993, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board