

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1991

WILLIAMSON ADHESIVES, INC.,)	
)	
Petitioner,)	
)	
)	
v.)	PCB 90-168
)	(Underground Storage Tank
)	Fund Reimbursement
)	Determination)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

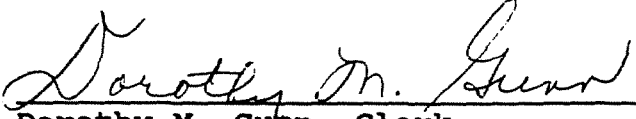
ORDER OF THE BOARD (by J.C. Marlin):

This matter is before the Board on the Illinois Environmental Protection Agency's ("Agency") Motion for Summary Judgment filed June 3, 1991. The motion requests the Board to grant summary judgment in petitioner's claim for reimbursement from the Underground Storage Tank Fund. The motion states that it is filed "in accordance with Board Rule 101.244...and Rule 2-1005 of the Illinois Code of Civil Procedure..."

The Agency is correct that motions for summary judgment are made pursuant to 35 Ill. Adm. Code 101.244. They are also, however, governed by the provisions of Section 101.245 of the Board's rules entitled "Motions Preliminary to Hearing". 35 Ill. Adm. Code 101.245. That section states that all motions preliminary to hearing shall be presented to the Board or hearing officer at least 21 days prior to the date of hearing unless allowed by the Board or the hearing officer to prevent material prejudice. The rule is crafted in order to allow an opposing party sufficient time to respond prior to hearing and to allow the Board ample opportunity to fully consider the motion. Hearings in this matter are scheduled for June 13 and 14, 1991. The petitioner's response time will not run until June 10, 1991. The Board is not scheduled to meet again until June 20, 1991. In addition, no allegation of material prejudice accompanies the Agency's motion. Because the Agency's motion does not comport with letter and intent of the Board's procedural rules, the Agency's motion is denied.

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 6th day of June, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board