

ILLINOIS POLLUTION CONTROL BOARD
April 2, 1984

INDUSTRIAL SALVAGE, INC.,)
)
 Petitioner,)
)
 vs.) PCB 83-173
)
 COUNTY BOARD OF MARION,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On March 2, 1984, Shirley Watson, et. al., filed a Motion to Reconsider the Board's February 22, 1984 Opinion and Order in this matter. On March 26, 1984 Marion County Filed a Motion to Vacate the February 22, 1984 Order. Both motions urge the Board to vacate the prior Opinion and Order since none of the attorneys and no member of the public objected to the procedural rulings at the September 13, 1983, Marion County hearing. Also, neither the attorneys nor members of the public posed objections to the September 13, 1983, procedural rulings at this Board's hearing on February 2, 1984.

Section 40.1(a) of the Environmental Protection Act requires this Board to make findings regarding the fundamental fairness of the procedures employed by the County, whether raised by the parties or not. E & E Hauling requires those hearings to be adjudicative, and statutory adjudicative due process requires an opportunity to cross-examine witnesses. Since Marion did not provide an opportunity to cross-examine by the attorneys (and perhaps by the public) this matter must be remanded.

The Board notes that the Motion to Reconsider and Motion for a Special Meeting are improper, as Watson is not a party, having never requested or been granted intervenor status.


The Motion to Vacate is denied.

The Board has resolved these issues at a Special Board meeting to remove any cloud of uncertainty concerning the County's scheduled April 5, 1984 hearing.

IT IS SO ORDERED.

Board Members J.D. Dumelle and J. Theodore Meyer dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2nd day of April, 1984 by a vote of 4-2.



Christan L. Moffett, Clerk
Illinois Pollution Control Board