

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1989

IN THE MATTER OF:)
)
PROPOSED RULE CONCERNING DEPARTMENT)
OF ARMY MAINTENANCE DREDGING OF THE) R88-15
ILLINOIS WATERWAY)
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ORDER OF THE BOARD (by J. Marlin):

By way of a Hearing Officer Statement, issued January 9, 1989, the Hearing Officer has informed the Board that the Department of Army, Rock Island District, Army Corps of Engineers (Army), the proponent of this rulemaking, will not be able to move forward with this matter until it is able to collect monitoring data concerning its dredging activities. Evidently, the Army did not dredge the Illinois waterway last summer, and the earliest time period in which it will be able to collect the requisite data will be during the Summer of 1989, assuming that dredging operations will be conducted then.

In addition, the Board has interpreted recent amendments to the Environmental Protection Act (Act) as requiring the Board to determine whether an Economic Impact Study should be conducted in this matter. Specifically, the Board must make such a determination by March 2, 1989. See Res. 89-1 (January 5, 1989). Since Army could not proceed to hearing in this matter until sometime after a Summer dredging operation, it does not seem beneficial for the Board to make an EcIS determination at this time.

Given these circumstances, it appears that the most prudent course of action is to dismiss this matter granting leave to Army to re-file a proposal when it is able to support that proposal with the necessary information.


The Board notes that Army filed its proposal on June 30, 1988. The Board by its Order of September 17, 1987 (PCB 87-38) granted Army a variance conditioned, in part, on the requirement that Army file a petition for site-specific regulatory relief by July 1, 1988. The Board finds that Army has fulfilled that condition notwithstanding the Board's action today. In other words, the Board's Order in this matter does not disturb in any way the variance granted to Army in PCB 87-38.

This matter is dismissed, and Army is granted leave to re-file a petition seeking regulatory relief when it is able to timely pursue such a petition.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985 ch. 111 1/2 par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 19th day of JANUARY, 1989, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board