

ILLINOIS POLLUTION CONTROL BOARD  
May 17, 2001

PRAIRIE RIVERS NETWORK,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 01-112
	)	(Permit Appeal – NPDES, Third-Party)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY and BLACK	)	
BEAUTY COAL COMPANY,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by E.Z. Kezelis):

On May 14, 2001, Prairie Rivers Network (Prairie Rivers) and Black Beauty Coal Company (Black Beauty) filed motions for oral argument. Black Beauty’s motion states that its intention to seek oral argument was discussed during the hearing held on May 1 and 2, 2001, and that none of the other parties objected. Even under such circumstances, the Board typically defers ruling on motions until the time within which responses are due has passed. Because this case has a rapidly approaching statutory decision deadline, the Board addresses the pending motion for oral argument now.

Section 101.700 of the Board’s procedural rules provides that, when considering a motion for oral argument, the Board “will consider, but is not limited to considering, the uniqueness of the issue or proceeding and whether the issue or proceeding involves a conflict of law.” 35 Ill. Adm. Code 101.700(b). The rules also provide that the Board will deny a request for oral argument when there is insufficient time to conduct the oral argument and meet the applicable statutory decision deadline. 35 Ill. Adm. Code 101.700(c).

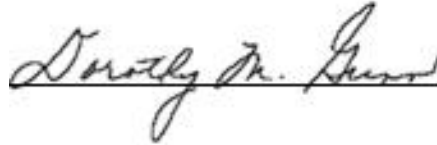
The Board is sensitive to the fact that this is the first third-party appeal of a National Pollutant Discharge Elimination System (NPDES) permit in which a Board hearing has actually been held since amendment of Section 40 of the Environmental Protection Act (Act) (415 ILCS 5/40 (1998)) to specifically authorize the filing of NPDES permit appeals. (See Pub. Act. 90-274, adding Section 40 (e)(1) to the Act effective July 30, 1997). Because, however, no posthearing briefs have been filed thus far, the Board is unable to conclude that the issues presented would require additional argument beyond that which the Board expects the parties will present in their briefs. The current briefing schedule, moreover, establishes a tight timeline: petitioner’s brief is due May 18, 2001; respondents’ briefs and *amicus curiae* briefs are due on May 25, 2001; and petitioner’s reply brief is due on May 31, 2001. Furthermore, this matter is subject to a statutory decision deadline of July 2, 2001, and the Board must render its opinion by no later than June 21, 2001.

Accordingly, because no posthearing briefs have yet been filed, and because, pursuant to Section 101.700(c), the current schedule renders insufficient time to allow it, the motion for oral argument is denied.

IT IS SO ORDERED.

Board Member G.T. Girard dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 17th day of May 2001 by a vote of 6-1.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board