

ILLINOIS POLLUTION CONTROL BOARD  
March 31, 1994

WHITE CAP, INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 94-93  
 ) (Variance)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by G. T. Girard):

On March 21, 1994, White Cap, Inc. filed a petition for variance regarding its Chicago facility, located in Cook County. This matter is accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, the statutory decision deadline is July 19, 1994; therefore the decision due date is June 23, 1994.

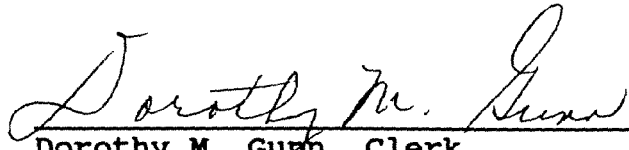
If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its

recommendation for disposition of the petition within 30 days of filing of the petition.

The Board also notes that the petition states that the "Petition for a Variance, the Amended Agency Recommendation and the hearing record from PCB 92-153 remain true and accurate and are incorporated herein by reference". (Pet. at 1.) Section 101.106 of the board's rules allows incorporation of prior proceedings "upon separate written request". Further, the Board's rules require that the "person seeking incorporation shall file with the Board four copies of the material to be incorporated". Petitioner has included copies of the petition from PCB 92-153 with this filing but not copies of the other documents petitioner may wish to incorporate. The Board will allow the incorporation of the materials provided petitioner submits four copies of all the material from PCB 92-153 which the petitioner wishes to incorporate.

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 31<sup>st</sup> day of March, 1994, by a vote of 5-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board