

ILLINOIS POLLUTION CONTROL BOARD  
September 3, 1992

KELLEY-WILLIAMSON COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 92-10  
 ) (Underground Storage Tank Fund  
 ) Reimbursement Determination)  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by B. Forcade):

At the hearing held April 29, 1992, Petitioner chose not to present a case. Instead, they recited that a settlement was agreed to and that petitioner would be filing a motion to dismiss. R. 9. This case is presently due October 21, 1992. No motion to dismiss has been filed.

The Board will not allow a deadline case to remain on its docket without a schedule for completion. Unless petitioner files, before September 14, 1992, a motion for voluntary dismissal or an open waiver of the Board's decision deadline, this case will be subject to dismissal for want of prosecution.

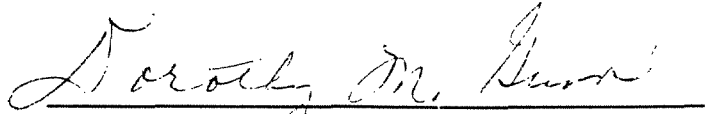
On September 2, 1992, Kelley-Williamson filed a "Motion to Accept Settlement" with the Board. Section 101.241 prohibits the Board from granting any motion until the expiration of the 7-day response period unless undue delay or material prejudice will result. This case is presently due October 21, 1992. Due to the approaching due date in this case the Board will consider this motion without awaiting a response from the Agency to avoid undue delay. Furthermore, the Board will not grant this motion, so the Board is not required to wait until the expiration of the 7-day response period.

The motion to accept the settlement is denied. The settlement consists of the testimony presented at hearing. There is no signed settlement agreement before the Board. The Board has previously refused to accept settlement agreements in permit appeal cases due to the lack of a record on which the Board can exercise its independent judgment and make proper findings of facts and conclusions of law. (General Electric v. EPA (September 12, 1991), PCB 90-65.) Because there is no signed settlement agreement before the Board and no record to support the terms of the settlement the Board denies the motion to accept the settlement.

IT IS SO ORDERED.

0135-0515

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 2<sup>nd</sup> day of September, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board