

ILLINOIS POLLUTION CONTROL BOARD
October 29, 1992

ATWOOD INDUSTRIES, INC.,)
)
 Petitioner,)
)
 v.)
)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

PCB 91-52
(Permit Appeal)

ORDER OF THE BOARD (by B. Forcade):

On October 15, 1992, Atwood filed a joint status report along with a motion to file the status report instanter. The motion to file instanter is granted. The status report states that negotiations have been continuing with the Illinois Environmental Protection Agency (Agency) and several issues have been resolved. Atwood believes that given the significant progress of the meetings, the matter will be resolved without a hearing. Atwood requests the Board to require the parties to file additional status reports on or before January 15, 1993.

The Board notes that the decision deadline in this matter has been waived only until March 1, 1993. Given the decision deadline, if a hearing is needed, all hearings must be completed before January 30, 1993, in order for the Board to receive the transcripts in adequate time to reach its final decision. Failure to adhere to this schedule could jeopardize the Board's ability to meet the decision deadline.

The Board order of March 28, 1991 accepting this matter for hearing provided that:

Within 10 days of accepting this case, the hearing officer shall enter a hearing officer scheduling order governing completion of the record. That order shall set a date certain for each aspect of the case including: briefing schedule, hearing date(s), completion of discovery (if necessary) and pre-hearing conference (if necessary).

* * *

Any order by the hearing officer granting cancellation of hearing shall include a complete new scheduling order with a new hearing date at least 40 days in the future and at least 30 days prior to the new due date and the Clerk of the Board shall be promptly informed of the new schedule.

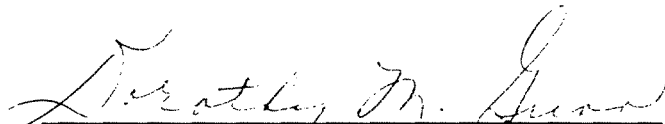
0137-0037

The hearing officer accepted this case on April 8, 1991. The only scheduling order in this matter was filed on May 18, 1992, more than a year after the hearing officer's acceptance of the case. This schedule established the completion dates for the hearing scheduled for July 8, 1992. This hearing was later cancelled and a new scheduling order was not filed. On July 1, 1992, Atwood filed a request to reschedule the hearing. No hearing is scheduled and the hearing officer has not submitted a scheduling order. The Board is concerned with cases where a scheduling order has not been filed especially in cases with a decision deadline. The Board will not allow a deadline case to remain on its docket without a schedule for completion. (See Kelley-Williamson v. IEPA (September 3, 1992), PCB 92-10.)

The hearing officer is instructed to establish a schedule by which all hearings are to be completed on or before January 30, 1993 and submit a scheduling order to the Board. However, the hearing officer is authorized to modify the scheduling of hearings by filing a new scheduling order with the Board in the event an appropriate waiver is received. If an additional waiver is filed, the Board would expect the filing of an updated status report on or before January 15, 1993.

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 29th day of October, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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