

ILLINOIS POLLUTION CONTROL BOARD
September 26, 1991

IBP, INC.,)	
)	
)	
Petitioner,)	
)	
v.)	PCB 88-98
)	(Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. Forcade):

On February 7, 1991, the Board ordered this matter set for hearing and instructed that all hearings be completed by August 2, 1991. That Order was not complied with. Consequently, on September 12, 1991, the Board Ordered that all hearings be completed by November 14, 1991, stating that failure to complete hearings according to this schedule would subject the proceeding to dismissal for want of prosecution. On September 25, 1991, IBP and the Agency jointly moved for yet another continuance.

The permit under review was issued on May 5, 1988. Under federal and state law that permit would have a maximum term of 5 years. We are now 2 1/2 years into the originally anticipated lifetime of that permit and the controversy is still not resolved.

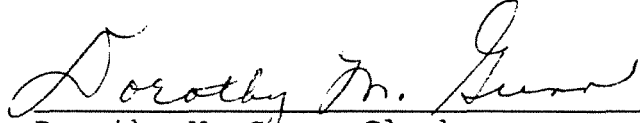
The permit review provisions of Section 40 of the Illinois Environmental Protection Act contemplate that NPDES permit review decisions by this Board can be completed within 120 days. We are now more than one year since the September 21, 1990 Appellate Court Opinion remanding this matter to the Board, and hearing on the merits has still not been completed.

The most recent motion for continuance simply recites additional negotiations taking place between USEPA, IEPA, the Department of Justice and IBP regarding many water pollution and air pollution regulatory issues. Such generalized assertions provide an inadequate basis to further postpone a matter so long delayed. Further, neither party asserts that such negotiations preclude a decision by this Board or that any future negotiated settlement approved by a U.S. District Court could not be implemented despite any ruling by this Board on this permit.

This case is too long delayed. The motion for continuance is denied. Failure to complete all scheduled hearing in this matter by November 15, 1991 will subject this matter to dismissal for want of prosecution.

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 26th day of September, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board