

ILLINOIS POLLUTION CONTROL BOARD  
October 11, 1990

CARGILL, INC. )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 87-89  
 ) (Permit Appeal)  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY and )  
 VILLAGE OF CARPENTERSVILLE, )  
 )  
 Respondents. )

ORDER OF THE BOARD (by J.C. Marlin):

By Order of May 24, 1990, the Board directed the parties to file statements on or before June 15, 1990 indicating their views as to how proceedings on remand of this case should best proceed consistent with the May 9, 1990 mandate of the Second District Appellate Court. Village of Carpentersville v. IEPA, and Cargill, Inc., 176 Ill. App. 3d 668, 531 N.E.2d 400 (2d Dist. 1988), affd. Ill. 2d \_\_\_\_\_, N.E.2d \_\_\_\_\_ (No. 68074, March 29, 1990). In that Order, the Board was directed to determine whether a permit condition requiring a 100-foot stack was necessary for the operation of Cargill's incinerator to be in compliance with the Act and Board regulations.

The Village, in its June 13 filing requested that the matter proceed to hearing. Cargill, in its June 14 filing, and the Agency, in its June 15 filing, each request that the parties be given an additional 45 days in which to negotiate, consider, and potentially settle this matter. The Board granted an extension of time, first by Order of June 21 and second by Order of August 30.


On September 7, the Agency moved the Board to remand the permit back to the Agency. On September 11, the Agency issued a revised permit which deletes the 100-foot stack requirement. On September 13, the Village filed a response in opposition to the Agency's remand motion, again requesting that the matter be set for hearing. On October 9, the Agency and Cargill each filed statements providing copies of the revised permit. Cargill's statement additionally asserts that with the deletion of the stack height condition there are no remaining matters at issue in the case.

The Board finds that under these circumstances, there is no

case or controversy existing between Cargill and the Agency over which the Board can take jurisdiction. As there is no right of third party appeal of air permits under the Act, the Village lacks standing to press any issue. Accordingly, this case is dismissed and the docket is closed.

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 11<sup>th</sup> day of October, 1990, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board