

ILLINOIS POLLUTION CONTROL BOARD
May 24, 1990

USS DIVISION OF USX CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 90-28
) (Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board upon a Motion to Reconsider filed May 2, 1990 by USS Division of USX Corporation ("USS"). No response to this motion was filed by the Illinois Environmental Protection Agency ("Agency").

USS asks the Board to reconsider a portion of its April 12, 1990 Order. USS agrees with the portion of the Order which denied the Agency's motion to dismiss USS' Petition for Variance. However, USS asks the Board to reconsider and reverse its holding that the water toxics rules implement, in whole or in part, an NPDES program, and can accordingly be stayed only by Order of the court.

The Board grants reconsideration of its April 12, 1990 Order. The question presented seems to involve, in significant part, an interpretation of federal law: whether water quality standards implement in whole or in part an NPDES permit program. Since the Agency has declined to provide the Board with advice on this issue, the Board believes that it is appropriate to request that the United States Environmental Protection Agency ("USEPA") provide the Board with any comments it may have on this issue. Accordingly, the Board specifically will serve the Region V office of USEPA with today's Order and other filings and request that USEPA respond as soon as possible. The Board would greatly appreciate USEPA's response by June 25, 1990. USEPA is requested to serve its response on the other parties in this proceeding.

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 27th day of May, 1990, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board