

ILLINOIS POLLUTION CONTROL BOARD
September 8, 1988

NATURAL GAS PIPELINE COMPANY)
OF AMERICA,)
)
Petitioner,)
)
v.) PCB 87-150
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On September 1, 1988, Natural Gas Pipeline Company of America ("Natural") filed a "Supplemental Brief and Request for Hearing". That document requests a hearing and states, "In addition, Natural hereby withdraws the General Waiver of Decision filed October 8, 1987, and requests a hearing within the statutory time frames established by 35 Ill. Adm. Code 103.125". Also, on September 7, 1988, the Illinois Environmental Protection Agency filed a response to request for hearing.

Natural's request for a hearing is moot. First, this permit appeal is governed by Section 40 of the Environmental Protection Act ("Act"), which mandates that a hearing be held. Second, by Order of October 15, 1987, this Board specifically required that a hearing be held in this matter. Since hearing must be held as a matter of statutory law, as well as prior Board Order, Natural's request is moot.

The more troubling issue is Natural's attempt to withdraw the General Waiver of Decision Deadline. The Board will not allow the general waiver of decision deadline to be withdrawn. The Board will however construe that request as a motion for expedited consideration and will make every attempt to promptly schedule hearing and dispose of this matter. The hearing officer is directed to promptly enter a scheduling order, consistent with the requirement of the Board's October 15, 1987 Order, that will ensure completion of the hearing and all briefs not later than November 30, 1988.


The Act sets very stringent time deadlines for the disposition of certain matters. Failure of the Board to decide the matter within that timeframe may result in a default victory by the petitioner regardless of the environmental consequences that might follow. As a result, the Board takes time deadline proceedings very, very seriously and monitors their progress

quite closely. Each document in a time deadline proceeding is examined when it is filed to determine what impact it might have on the decision deadline. Where the petitioner has filed an open waiver of decision deadline, each document is not so examined. It is possible in such cases that a withdrawal of general waiver would go unnoticed until there was no longer time to schedule and hold the requisite activities, and a default would result. This possibility is greater where, as here, the "withdrawal" is only contained within the text of an eleven page document, but the document is captioned "Supplemental Brief".

Natural provided an unqualified general waiver of decision deadline on October 9, 1987. That waiver was specifically repeated in the filing of October 21, 1987. The Board will not allow that general waiver to be withdrawn.

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 8th day of September, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board