

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1989

MODINE MANUFACTURING COMPANY,)
)
 Petitioner,)
)
 v.) PCB 87-124
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on two motions filed by petitioner Modine Manufacturing Company (Modine) on December 21, 1988. The first is a motion for leave to file a single copy of an exhibit, instead of the usual ten copies. That motion is denied. Modine is directed to file the additional required copies. The second motion filed by Modine is a motion to reconsider the Board's November 17, 1988 order granting the Illinois Environmental Protection Agency's (Agency) motion for sanctions and dismissing this matter with prejudice. On January 6, 1989, the Agency filed its response to Modine's motion for reconsideration. The Agency asks that the Board deny the motion to reconsider.

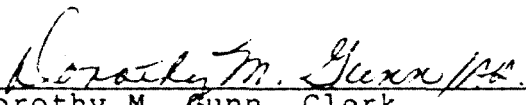
One of the claims raised by Modine in support of its request for reconsideration is that the Board misapprehended the circumstances of this case. In support of that claim, Modine alleges that in July and August 1988 it "properly obtained extensions on the briefing schedule by the vehicle of oral motions to the hearing officer." (Motion to reconsider at p. 18.) Although Modine stated in its November 16, 1988 response to the Agency's motion for sanctions that counsel for Modine had contacted the hearing officer in summer 1988 (see response at p. 2), this contact was not represented as an extension of the schedule by oral motion. The Board is frustrated by the additional delay caused by Modine's new characterization of the facts. However, Modine and the Agency have had the opportunity to present their views of the circumstances, and the Board believes that the hearing officer should have a similar opportunity. So that the Board will be fully apprised of all facts, the Board orders the hearing officer in this matter to respond to the claims made by Modine at pages 18 and 19 of its motion for reconsideration. Specifically, the hearing officer should address the question of extensions of the briefing schedule upon oral motion. Of course, the hearing officer may

address any other facts he feels are relevant to this matter. The hearing officer's response, with service upon Modine and the Agency, shall be filed by Wednesday, February 1, 1989. Replies, if any, to the hearing officer's filing will be accepted no later than February 9, 1989.

IT IS SO ORDERED.

R. Flemal dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 19th day of JANUARY, 1989, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board