

ILLINOIS POLLUTION CONTROL BOARD
September 20, 1985

ALTON PACKAGING CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 83-49
) PCB 83-55
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon a September 4, 1985 motion for reconsideration and to vacate dismissal filed on behalf of the Alton Packaging Corp. (Alton).* The Illinois Environmental Protection Agency (Agency) responded in opposition on September 18, 1985.

On July 1, 1985 the Board adopted an Order dismissing this matter due to Alton's failure to proceed diligently toward final ruling. Alton contends that the Board's action was improper in that "Alton had, prior to the December 7, 1984 hearing in this matter, diligently prosecuted its petitions and had, subsequent to that time, a reasonable explanation, not known to the Board at the time of its Order, for the delay in filing its amended petition." (Motion, pp. 1-2).

The Board disagrees. Pursuant to Section 38(b) of the Illinois Environmental Protection Act, Alton stayed the effect of an otherwise applicable rule for well over two years on the basis of filing a variance petition which the Board could have ordered to hearing 5 days after the date of notice of hearing. Section 38(b) grants unusual relief which clearly contemplates an unusually expeditious proceeding. Yet, in its conclusion to its motion Alton speaks of the "relatively short delay" of nearly seven months in filing (or rather not filing) an amended petition after the December 7, 1984 hearing which the Board had earlier ordered to be held at least three months before that date based upon the apparent inactivity in the proceeding since the filing of the Illinois Environmental Protection Agency's recommendation more than ten months before that.


This proceeding has been anything but expeditious, and Alton should no longer be allowed to benefit from the unusual relief of Section 38(b). Therefore, the motion to reconsider and vacate is

* A corrected copy was submitted on September 13, 1985.

hereby denied. Alton is, of course, free to file a new petition.

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 20th day of September, 1985 by vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board