

ILLINOIS POLLUTION CONTROL BOARD  
March 18, 1999

DYNACHEM, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 99-131
	)	(Permit Appeal - RCRA, NPDES)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.A. Manning):

On March 15, 1999, DynaChem, Inc. (DynaChem) filed a petition for review which seeks review of two distinct permitting situations. Each permitting situation involves DynaChem's chemical manufacturing facility located on Maple Grove Road, Georgetown, Vermilion County, Illinois. The Board's disposition of each portion of the petition follows the description of the relief sought below.

DECEMBER 15, 1998 CLOSURE PLAN LETTER

The first situation involves a December 15, 1998 letter which the Illinois Environmental Protection Agency (Agency) characterized as "an approval of a request to modify a RCRA [Resource Conservation and Recovery Act] closure plan." Pet. Exh. E, p.1. In the first two sections of its petition, DynaChem requests that the Board strike paragraphs 5 and 6 of the letter; paragraph 5 recommends that certain of the units remain idle until the Agency certifies their clean closure, and paragraph 6 imposes certain testing conditions. Pet. 1-5.

The Board strikes and dismisses this portion of the petition as untimely filed. Section 40 (a) (1) of the Environmental Protection Act (Act) (415 ILCS 5/40 (a)(1) (1996)), confers jurisdiction on the Board to hear petitions for review of permits provided they are filed within 35 days of the Agency decision. Any appeal of the December 15, 1998 letter would be due to be filed no later than January 19, 1999. The Board has no jurisdiction to hear this late appeal of the Resource Conservation and Recovery Act (RCRA) closure plan letter.

STATUS OF APRIL 23, 1996 PERMIT APPLICATION

In the third portion of its petition, DynaChem requests that the Board declare a permit "deemed issued" pursuant to Section 39 (a) of the Act (415 ILCS 5/39(a) (1996)). The permit at issue is one DynaChem applied for under the National Pollution Discharge Elimination System (NPDES). DynaChem alleges that it applied for an NPDES permit to discharge stormwater on April 23, 1996, and that the Agency held a public hearing concerning the

application on April 30, 1998. DynaChem asserts that because the Agency failed to issue the permit within 180 days of that date, *i.e.*, on or before October 27, 1998, the Board should determine that the permit is to be “deemed issued.”

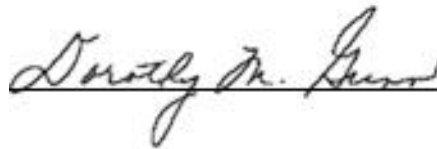
As the Act does not specify a procedure or deadline for determinations that permits are “deemed issued,” the Board will not dismiss this portion of DynaChem’s petition at this time. The Board accepts this matter for hearing today to facilitate management of further proceedings in this case. In so doing, the Board in no way intends to foreclose any arguments the parties may wish to make concerning issues of jurisdiction, waiver, or any other issue which may be involved in this appeal.

Hearings shall be scheduled and completed in a timely manner pursuant to the applicable statutory decision deadline or as extended by waiver (see 415 ILCS 5/40(a)(2) (1996), 35 Ill. Adm. Code 101.105). Unless otherwise ordered by the hearing officer, the Agency shall file the record of its review of the permit application within 14 days of notice of the petition. See 35 Ill. Adm. Code 105.102.

Finally, descriptors in the captions on any future orders entered in this matter will not refer to the action as a RCRA permit appeal, but instead only as an NPDES permit appeal.

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 18th day of March 1999 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board