

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 1982

COUNTY OF LaSALLE, et al., )  
 )  
 ) Petitioners, )  
 )  
 ) v. ) PCB 81-10  
 )  
 ) ILLINOIS ENVIRONMENTAL )  
 ) PROTECTION AGENCY, et al., )  
 )  
 ) Respondents. )

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

The following is a listing of motions and responses which have been filed in this matter since January 28, 1982:

Motion to Compel Attendance of Witnesses	1/28/82
Petitioners' Motion for Summary Reversal	1/28/82
Motion for Permit by Default or Alternatively for Affirmance Without Additional Hearings	2/1/82
Objections to Motion for Permit by Default or Alternatively for Affirmance Without Additional Hearings	2/3/82
Motion to Strike Improperly Filed Documents	2/3/82
Objections to Motion To Strike Improperly Filed Documents	2/3/82
Objections to Petitioners' Motion to Compel Attendance of Witnesses	2/4/82

Hearing in this matter is presently set for February 6, 1982. Given the complexity of this case and the extremely short time period that the Board is necessarily operating under, the Board will go no further at this time in deciding these motions than is necessary to provide some guidance as to whether the hearing should be held and what sorts of testimony should be allowed. To the extent that this Order fails to resolve all issues in this matter currently before the Board, those unresolved issues will be decided with the case.

First, the Board will not grant summary affirmance or summary reversal at this time. These motions cannot be construed as waivers of the mandatory hearing requirement of Section 40 of the Act. While not deciding whether a hearing has in fact already been held, prudence dictates that the scheduled hearing proceed. In this way the protection of any due process rights before the Board can best be assured.

Second, the motion to strike improperly filed documents will not be ruled on at this time. The Board notes, however, that it prefers, where possible, to base its decisions upon the hearing record.


Third, in accordance with the Board's preference for hearing testimony, the Board hereby grants Petitioners' motion to compel the appearance of witnesses Cavanagh and Ayers. The depositions indicate that they have direct knowledge of the Agency's review process in this matter and the sufficiency of the record. That information is clearly relevant to this proceeding and is best presented at hearing with a full opportunity for cross-examination.

Finally, the Board reaffirms its earlier Orders in this matter and notes that the Board's April 2, 1981 Order in Hamman v. IEPA (PCB 80-153) provides guidance as to proper hearing procedures in this matter.

IT IS SO ORDERED.

D. Anderson abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 4<sup>th</sup> day of February, 1982 by a vote of 3-0.

  
 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board