

ILLINOIS POLLUTION CONTROL BOARD
January 23, 1997

BORDEN CHEMICALS AND PLASTICS)	
OPERATING LIMITED PARTNERSHIP,)	
)	
Petitioner,)	PCB 97-102
)	(Variance - Water)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. McFawn):

On December 11, 1996, Borden Chemicals and Plastics Operating Limited Partnership (Borden) filed a petition for variance regarding its plastics manufacturing facility, located near Illiliopolis, in Sangamon County. Borden seeks a variance from the general use water quality standards for temperature set forth at 35 Ill. Adm. Code 302.211(b) - (d), and the general prohibition set forth in 35 Ill. Adm. Code 304.105 against causing a violation of any water quality standard.

In its petition for variance, Borden waived its right to a hearing. However, on January 21, 1997, the Board received a letter from Donna Showalter objecting to the grant of the variance. The Board finds that a hearing in this matter would be advisable, and sends this matter to hearing. (See 415 ILCS 5/37(a).)

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is

now April 10, 1997; the Board meeting immediately preceding the due date is scheduled for April 3, 1997.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its recommendation for disposition of the petition within 30 days of filing of the petition. Since the petition was filed on December 11, 1996, the Agency's recommendation was due to be filed on January 10, 1997.

IT IS SO ORDERED.

Board Member Kathleen M. Hennessey abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board