

ILLINOIS POLLUTION CONTROL BOARD  
March 6, 1997

MCWANE, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 97-114
	)	PCB 97-149
ILLINOIS ENVIRONMENTAL	)	(UST - Appeal)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On December 31, 1996 the Illinois Environmental Protection Agency (Agency) and Clow Company (petitioner) filed a joint notice of extension of the 35-day appeal period pursuant to Section 40 of the Environmental Protection Act, relating to the November 26, 1996 Agency final determination. The Agency requested the extension "to February 24, 1997, or any other date not more than a total of 90 days from the date of the Agency's final determination."

The Agency's final determination concerns the petitioner's site located at 300 S. Gary Avenue, Carol Stream, DuPage County, Illinois. On February 24, 1997 the Board received the petitioner's petition for review of two Agency decisions made on November 26, 1996. The Agency disapproved the corrective action plan and rejected the corrective action completion report.

Since the petitioner is seeking review of two separate decisions, the Board will docket the appeal of the Agency's disapproval of the corrective action plan in this docket and open a new docket PCB 97-149 for the appeal of the Agency's rejection of the corrective action completion report. Further as there are two separate appeals, the petitioner is directed to remit a filing fee of \$75.00 for docket number PCB 97-149 by April 7, 1997.

Petitioner also filed motion to amend the caption to indicate that the petitioner in this proceeding is McWane, Inc. rather than Clow Company. The motion to amend the caption is granted and the caption reflects the change. These matters are accepted for hearing. If the parties believe that these matters should be consolidated for purposes of hearing, the parties should file a motion to consolidate.

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 Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

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 June 24, 1997 (120 days from February 24, 1997). The Board meeting immediately preceding the decision deadline is scheduled for June 19, 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 105.102) require the Agency to file the entire Agency record of its review of the Corrective Action Plan and High Priority Corrective Action Completion Report within 14 days of notice of the 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 \_\_\_\_\_ day of \_\_\_\_\_, 1997, by a vote of \_\_\_\_\_.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board