

ILLINOIS POLLUTION CONTROL BOARD
January 24, 1991

AMOCO OIL COMPANY)	
(Creve Coeur Terminal))	
)	
Petitioner,)	
)	
v.)	PCB 91-10
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. Forcade):

On January 18, 1991 Amoco Oil Company (Creve Coeur Terminal) filed a petition for variance. This matter is accepted for hearing. The petition states that the variance relates to the construction of a ground-water treatment system, however, certain aspects of the request for relief are unclear. The Board directs that the petitioner specifically address the following at hearing: identification of every section of the Board's regulations from which a variance is sought; the dates on which the variance would begin and terminate; the details of the compliance plan to which Amoco commits; the maximum levels sought for any concentrations of iron or other constituents in the receiving water; and whether relief may be granted consistent with federal law.

Amoco's petition at pages 3 and 4 refers to a complaint filed by the State against Amoco and an Interim Agreed Order entered by the Circuit Court for Tazewell County, Illinois. Amoco states that "(t)he order will govern the construction and operation of, among other things, the ground-water recovery systems that are the subject of this petition." Amoco is directed to file copies of the complaint and agreed order, indicating the extent to which the agreed order constitutes Amoco's compliance plan. As a variance provides only temporary relief from the act and regulations, a detailed compliance plan must be submitted. See 35 Ill. Adm. Code 104.121, Contents of Variance Petition; Monsanto Co. v. IPCB, 67 Ill. 2d 276, 376 N.E.2d 684 (1977).

Hearing must be scheduled within 14 days of the date of this Order and completed within 60 days of the date of this Order. The 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 and all

actual exhibits to the Board within 5 days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and in no event later than 70 days from the date of this Order.

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. This schedule will only provide the Board a very short time period to deliberate and reach a decision before the due date. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

Within 10 days of accepting this case, the Hearing Officer shall enter a Hearing Officer Scheduling Order governing completion of the record. That Order shall set a date certain for each aspect of the case including: briefing schedule, hearing date(s), completion of discovery (if necessary) and pre-hearing conference (if necessary). The Hearing Officer Scheduling Order may be modified by entry of a complete new scheduling order conforming with the time requirements below.

The hearing officer may extend this schedule only on a waiver of the decision deadline by the petitioner and only for the equivalent or fewer number of days that the decision deadline is waived. Such waivers must be provided in writing to the Clerk of the Board. Any waiver must be an "open waiver" or a waiver of decision until a date certain. Any waiver shall extend the time deadline of Section 104.180 regarding filing the Agency recommendation by the equivalent number of days, but in any circumstance the recommendation must be filed at least 20 days before the hearing.

Because of requirements regarding the publication of notice of hearing, no scheduled hearing may be cancelled unless the petitioner provides an open waiver or a waiver to a date at least 120 days beyond the date of the motion to cancel hearing. This should allow ample time for the Board to republish notice of hearing and receive transcripts from the hearing before the due date. Any order by the hearing officer granting cancellation of hearing shall include a complete new scheduling order with a new hearing date at least 40 days in the future and at least 30 days prior to the new due date and the Clerk of the Board shall be promptly informed of the new schedule.


Because this proceeding is the type for which the Illinois Environmental Protection Act sets a very short statutory deadline for making a decision, absent a waiver, the Board will grant extensions or modifications only in unusual circumstances. Any such motion must set forth an alternative schedule for notice,

hearing, and final submissions, as well as the deadline for decision, including response time to such a motion. However, no such motion shall negate the obligation of the hearing officer to establish a Scheduling Order pursuant to the requirements of this Order, and to adhere to that Order until modified.

This Order will not be published in the Board's Opinion Volumes.

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 24th day of January, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board