

ILLINOIS POLLUTION CONTROL BOARD
October 30, 1980

AMAX COAL COMPANY, a division)
of AMAX, INC.,)
)
Petitioner,)
)
v.) PCB 80-63, -64
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by D. Satchell):

On October 17, 1980 the Environmental Protection Agency (Agency) filed an affidavit and motion for extension of time to file its brief. On October 17, 1980 Amax Coal Company filed an opposition and motion for summary decision and on October 24, 1980 a supplement. On October 27, 1980 the Agency filed its brief and a motion to file post hearing brief instanter, along with an objection to Amax's motion for summary decision.

Four hearings have been held in connection with this Chapter 4 operating permit appeal:

<u>Hearing Date</u>	<u>Transcript Filed</u>	<u>Page Numbers</u>
August 5, 1980	September 3, 1980	1-202
August 6, 1980	September 24, 1980	203-441
August 8, 1980	August 26, 1980	2-113
August 9, 1980	August 26, 1980	113-254

The Board notes that all of these transcripts were filed more than fourteen days after completion of the hearings, contrary to Procedural Rule 504. Furthermore, the cover page for the hearing of August 6 states that it was the hearing of August 5. Moreover, the transcript of the hearing of August 9 is contained within the same volume as the hearing of August 8. Petitioner was less than diligent in alerting the Board and parties to these irregularities in the transcript which have caused confusion concerning when the case was ready for decision.

At the conclusion of the hearings, the Hearing Officer ordered Amax to mail its brief within seven days of receipt of the transcript. The Agency's brief was to be mailed within fourteen days of receipt of the brief. Amax's reply brief was to be mailed within seven days of receipt of the Agency brief. Amax filed its brief on October 2,

1980. Because of the confusion surrounding the transcripts and the delay, Amax is not without fault. Therefore, the motion for summary decision is denied. The Agency's motion for extension of time and motion to file brief instanter is granted.

IT IS SO ORDERED.

Mr. Werner abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30th day of October, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board