

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1980

UNITED STATES STEEL CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 79-266
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by I. Goodman):

The Agency's September 5, 1980 Motion to Dismiss is denied. Regardless of whether Petitioner's applications were identical in substance to the ones involved in the First District Appellate Court review of the Board's Order in PCB 77-327 (Illinois Environmental Protection Agency v. Illinois Pollution Control Board and U. S. Steel Corp., Ill.App.3d, August 1, 1980), there are other items comprising the record in the instant proceeding which did not comprise the record of PCB 77-327. Furthermore, any hearing held in this matter may produce relevant evidence not contained in that record; Petitioner has not waived hearing in this matter.

Although the Board's Order of May 29, 1980 granting stay of proceedings until "September 1, 1980 or until the decision in [U.S. Steel], whichever occurs first", did not clarify whether it was the issuance of the opinion or the issuance of the mandate which constituted the "decision" in the case, the Board finds that the relevant time period is that period until the date upon which the subject matter of the litigation is final and conclusive upon the parties. Any other interpretation would be inconsistent with the intent behind a motion to stay or to defer.


The Board's Order of May 29, 1980 noted that Petitioner's waiver was pro tanto of the period of the "decision" in U.S. Steel or September 1, 1980, whichever first occurs. Because the date September 1, 1980 occurred before Petitioner has exhausted judicial remedies to which it has existing access, the 90-day decision period had resumed on September 1, 1980. By its May 14, 1980 waiver, Petitioner has given the Board until July 18, 1980 to decide the case; the effect of the May 29, 1980 Order made the due date on or before Sunday, October 19, 1980 (Friday, October 17, 1980).

However, upon representation at the Board meeting by counsel, Petitioner has waived the statutory decision period until March 1,

1981. Therefore, the Board, on its own motion, orders all hearings herein to be set and held on or before January 30, 1981 to allow Petitioner to pursue its appeal of U. S. Steel.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 18th day of September, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board