

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1990

AMERICAN STEEL CONTAINER)	
COMPANY, DRUM SHOP,)	
)	
Petitioner,)	PCB 87-91
)	(Variance)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by R. Flemal)

On June 7, 1990, the Board ordered the parties in this matter to submit status reports no later than July 2, 1990. Both parties filed those reports on July 2, 1990. Petitioner's status report indicated that in 1988 the parties had reached an agreement regarding settlement of this matter "which amounts, in essence, to a 'standstill' agreement during the institution and finalization of a compliance plan." (P. R. p. 1).¹ The compliance plan involves the purchase and installation of equipment which "is due to be delivered to Petitioner by mid-September, 1990." (P. R. p. 2). Therefore Petitioner believes that a continuance of this matter serves to "obviate the need for . . . a hearing on the variance petition." (P. R. p. 2).

The Respondent filed its status report and indicated that it believed "that compliance was going to be initiated and finally achieved by January, 1989." (R. R. p. 2-3). Compliance has not been achieved and the Respondent believes that the only options are to "proceed to hearing or for the petition to be dismissed at Petitioner's request." (R. R. p. 3). The Respondent also requests that the Board order Petitioner to comply with the Hearing Officer's December 24, 1987 discovery order, if the Board orders the matter set for hearing.

The Board's June 7, 1990 Order asked the question "why is it necessary for the Petitioner to have equipment actually on hand in order for the Board to render a decision on a variance". Neither party directly addressed this issue, and in fact the parties disagree on whether or not to proceed with hearing. This matter initially came before the Board in August 1987, on an amended petition for a variance seeking extension of a prior

1. Petitioner's status report is cited as "P. R." and Respondent's status report is cited as "R. R."

granted variance. As the Agency points out over two years have passed since the date that the Petitioner itself had set forth in its petition for variance as the date the Petitioner was requesting relief through. Therefore, the Board finds that continuing this matter further is not in the "interests of all involved." (P.R. p 2).

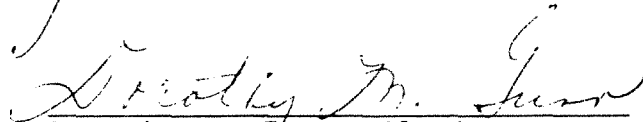
The Board directs the Hearing Officer to set this matter for hearing no later than September 19, 1990 and directs the Petitioner to comply with the Hearing Officer's December 24, 1987, discovery order.

IT IS SO ORDERED

Board Memeber J. D. Dumelle concurred.

Board Memeber J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 19th day of July, 1990, by a vote of 4-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board