

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

C. IBER & SONS, INC., THE)
WARREN COUNTY HOUSING AUTHORITY,)
and THE CITY OF MONMOUTH)
)
Petitioners,)
)
v.) PCB 80-82
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

By separate motions filed June 25 and June 27, 1980, each of the three variance petitioners moved the Board to accept waivers of hearing, or alternatively to establish that hearing be held on July 14, 1980 if the Board found a hearing desirable. This motion is based on an agreement with the Agency that it would file an amended Recommendation in support of the variance requested. Petitioners additionally "waived" the decision date in this matter from July 10 until July 24. The Agency filed its Amended Recommendation late in the day on July 9.

The Board must first advise the petitioners that, while they characterize their filing of June 23, 1980 a "Response to Recommendation of Illinois Environmental Protection Agency," the Board does not consider this filing to be the "response" permitted by Procedural Rule 406(a). Rather, the Board deems this filing to be an amended petition filed pursuant to Rule 406(b), as entirely new matter of a factual rather than argumentative or persuasive nature is being brought before the Board. Accordingly, petitioners "waiver" of decision date is irrelevant.

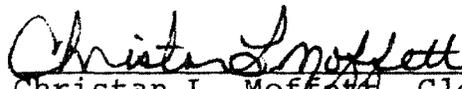
The Board construes petitioners' alternative motions as an unconditional waiver of hearing as required by Rule 401(b). This waiver is accepted. Of course, waiver of hearing at this point in no way forecloses petitioners from exercising their right under Rule 406(b) to request a hearing within seven days of receipt of the Agency's amended Recommendation.

The Board is aware of the need for a prompt decision in this matter, and intends to schedule this matter for decision on July 24.

The motion to accept petitioners' waiver of hearing is hereby granted.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 10th day of July, 1980, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board