

ILLINOIS POLLUTION CONTROL BOARD
October 31, 1990

GALLATIN NATIONAL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 90-183
) (Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

By its Order of October 25, 1990, in this matter, the Board determined that a) Section 38(b) of the Act automatically stays the applicability of 35 Ill. Adm. Code 312 to Gallatin during the pendency of this variance proceeding, and b) the Agency's December 19, 1990 decision deadline in which to make a decision pursuant to 39(a) on Gallatin's pending April 23, 1990 permit application is tolled during the pendency of the variance proceeding, since the Agency's permit decision would be based on questions relating to the same issues involved in this variance proceeding. The Board reserved ruling on the Agency's October 23 motion for expedited hearing and decision.

Pursuant to the directive in the Board's Order of October 11, Gallatin filed its response to the Agency's motion on October 29, to enable the Board to address this motion at today's special meeting. Gallatin states that it does not oppose the Agency's motion, but requests that hearing be set within 21 to 30 days from today's date, to allow it to conduct discovery and prepare for hearing. Gallatin further states:

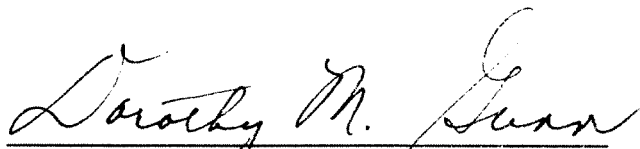
A hearing scheduled within twenty-one to thirty-days would not prejudice the Agency, since the Agency's only reason for moving for an expedited hearings appears to have been resolved by this Board's order tolling the decisional deadline [on the pending permit application]. (Motion, p. 2).

The Agency's motion for expedited hearing and decision is hereby granted. Section 38(b) of the Act provides that the Board "may hold a hearing upon [this] petition 5 days from the date of notice of such hearing." The Board has been advised by the Hearing Officer that he has scheduled hearing to commence November 29, 1990, to be continued day-to-day until completed.

The Board sees no reason to require that hearing be held at an earlier time in the event that Gallatin explicitly waives its right to challenge the Board's Order of October 25. If the Board receives an appropriate written waiver on or before November 2, 1990, hearing shall proceed as presently scheduled. In the absence of a waiver, in order to be able to quickly give notice, the Hearing Officer is directed to schedule hearing within 7 days of the date of this Order and to hold and complete hearing no later than 21 days from the date of this Order.

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 3/01 day of October, 1990, by a vote of 5-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board