

ILLINOIS POLLUTION CONTROL BOARD
April 23, 1992

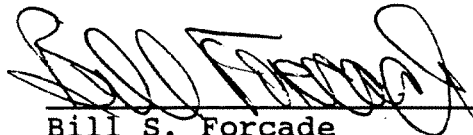
HEICO INCORPORATED,)
)
 Petitioner,)
) PCB 90-196
 v.) (Permit Appeal)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

CONCURRING OPINION (by B. Forcade):

I respectfully concur with the majority to express my frustration with the position the parties stated in the motion to reconsider. This proceeding was filed on October 26, 1990. On April 9, 1992, one and one-half years later (531 days to be exact), the record contained no filings by the petitioner except continued waivers of the Board's decision deadline. The record did contain four separate letters from the hearing officer attempting to set this matter for status conferences and hearing. (letters of January 2, 1991; July 24, 1991; August 5, 1991; and January 13, 1992). With this background, on April 9, 1992, the Board ordered this matter set for hearing or it would be subject to dismissal for want of prosecution.

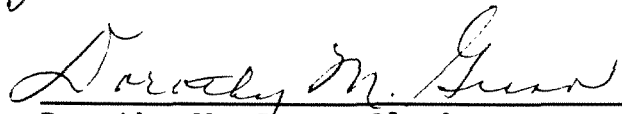
The motion for reconsideration says, in essence - how dare you force our case to hearing! The reconsideration motion states that the Board action "was improper" because it was not made in writing or orally at hearing. The parties further argue that the parties were not served or given 7 days notice of the action. They assert notice and opportunity for response were totally lacking in this case. The parties appear to be arguing for due process.

There is a substantial difference between "due process" and "overdue process". After languishing for one and one-half years with no action on the record, this case is clearly in the latter category. I can reluctantly support this one last extension. However, I urge the parties either to settle this case promptly or litigate it promptly.



Bill S. Forcade
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 30th day of April, 1992.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board