

ILLINOIS POLLUTION CONTROL BOARD
February 23, 1989

JOHN SEXTON CONTRACTORS COMPANY,)
)
 Petitioner,)
)
 v.) PCB 88-139
)
ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

The Board entered an Order on February 2, 1989 affirming the Illinois Environmental Protection Agency-issued ("Agency") permit conditions at issue in this proceeding. The Board did not simultaneously enter an Opinion setting forth its reasons. John Sexton Contractors Company ("Sexton") filed a motion for reconsideration on February 17. The Agency filed a February 22, 1989 response to Sexton's motion. The Board separately enters its Opinion today.

The Board's usual practice is to render its decision and supporting reasons in a single Opinion and Order. Each Board proceeding is assigned to a Board Member who is responsible for drafting that Opinion and Order. Occasionally, the draft Opinion and Order, written by that member, fails to gain a majority vote. In such instances, where the decision risks running afoul of a statutory due date, it is necessary for the Board to enter a timely Order, setting forth a decision without the supporting reasons. When this occurs, the proceeding is reassigned to another Board Member for a new majority Opinion, setting forth those reasons as soon as possible.

This is the situation here. Today's Opinion sets forth the reasons for the Board's February 2, 1989 Order. The Board will docket Sexton's February 17 motion for reconsideration. The Board hereby grants Sexton 35 days from today to submit an amended motion for reconsideration that is responsive to today's Opinion. This will give Sexton an opportunity to evaluate the reasons enunciated in today's majority opinion in this matter. The Board will not act on Sexton's motion until such time that Sexton submits an amended motion responsive to today's Opinion and the Agency has had an opportunity to submit any timely filings.

The Board notes that both Sexton and the Agency appear to be under the impression that a dissenting opinion was being "circulated" outside the Board. This is not the case; the Board cannot account for such erroneous impressions.

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 22nd day of February, 1989 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board