

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1988

FRED E. JURCAK)
)
 Petitioner,)
)
 v.) PCB 85-137
) (On Remand)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J.D. Dumelle):

On September 4, 1985, the Petitioner, Fred E. Jurcak, filed an appeal of an Illinois Environmental Protection Agency (Agency) decision imposing Special Conditions Nos. 8 and 9 in the NPDES permit issued to Jurcak on July 31, 1985. By Opinion and Order dated December 20, 1985, and for the reasons set forth therein, the Board determined that it lacked the authority to review Special Condition No. 8. Jurcak appealed that decision to the Illinois Appellate Court. On March 8, 1988, the Appellate Court, First District, in the case of Jurcak, Fred E. v. Illinois Environmental Protection Agency, No. 1-86-1965, consolidated with 1-86-2140, issued an order reversing the Board's December 20, 1985 decision and remanding for hearing before the Board pursuant to 35 Ill. Adm. Code 105.102(b)(8) "to consider whether there is an adequate factual basis for the imposition of Condition 8."

On April 19, 1988 Petitioner Fred Jurcak (Jurcak) filed a motion for reconsideration pursuant to the mandate of the Illinois Appellate Court. Jurcak requests that the Board enter an order striking Condition 8 from the NPDES permit.

As the Board believes that Jurcak's request for relief is premature in light of the Appellate Court's order to hold a hearing, the Board hereby grants that portion of Jurcak's motion that requests reconsideration and directs the Clerk to assign a hearing officer to set this matter for hearing.

Hearing must be scheduled within 14 days of the date of this Order and completed within 60 days of the date of this Order. The hearing officer shall inform the Clerk of the Board of the time and location of the hearing as expeditiously as possible but at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, and all actual exhibits to the Board within 5 days of the hearing. Any briefing schedule shall

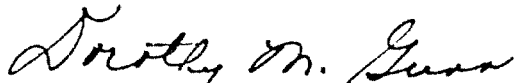
provide for final filings as expeditiously as possible and in no event later than 70 days from the date of this Order.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

Within 10 days of accepting this case, the Hearing Officer shall enter a Hearing Officer Scheduling Order governing completion of the record. That Order shall set a date certain for each aspect of the case including: briefing schedule, hearing date(s), completion of discovery (if necessary) and pre-hearing conference (if necessary). The Hearing Officer Scheduling Order may be modified by entry of a complete new scheduling 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 21st day of April, 1988 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board