

ILLINOIS POLLUTION CONTROL BOARD
May 11, 1995

SHEREX CHEMICAL CO., INC.,)
)
 Petitioner,)
)
 v.) PCB 91-202
) (Permit Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by E. Dunham):

On May 5, 1995, the Illinois Environmental Protection Agency (Agency) filed a status report as ordered by the Board. The Agency reports that Sherex Chemical Company (Sherex) has withdrawn its permit application that resulted in the RCRA Part B permit that is the subject of this appeal. The Agency approved the withdrawal of the application on October 20, 1994. The Agency contends that the withdrawal of the application has rendered this appeal moot and therefore this docket should be closed. The Agency also indicates that petitioner has informed the Agency that it intends to hold this docket open to provide a forum to address any future final Agency determination or other collateral issue concerning the closure plan.

Sherex filed its status report with the Board on May 5, 1995. Sherex reports that the Agency has requested documentation to support the withdrawal of the Part B application permit. Sherex anticipates that the documents will be filed with the Agency by July 31, 1995. Sherex maintains that upon the successful withdrawal of its RCRA Part B application, it will withdraw this appeal. Sherex objects to the position of the Agency that this matter should be dismissed as moot. Sherex contends that multiple appeals on the central issue would not promote economy of resources and would not adequately protect Sherex from future Agency decisions relating to the permit withdrawal submission.

In its status report Sherex included a waiver of the decision deadline for an additional 120 days through and including September 30, 1995. Section 101.105 of the Board's procedural rules require that waivers be filed as a separate document but allows the Board to accept waivers in other forms where necessary to prevent undue delay or material prejudice. (35 Ill. Adm. Code 101.105.) The Board will accept the waiver as filed by Sherex but requests that any additional waiver be filed as a separate document.

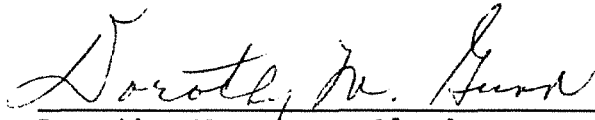
As Sherex has provided a waiver of the decision deadline and indicates that approval of the withdrawal of the Part B

application is still pending, the Board will not close this docket. Absent an additional waiver, the Board must decide this matter based on the record at its September 21, 1995 meeting. The Board orders the parties to file status reports with the Board on or before August 25, 1995.

IT IS SO ORDERED.

M. McFawn abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 11th day of May, 1995, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board