

ILLINOIS POLLUTION CONTROL BOARD  
April 23, 1992

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

ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board on a joint motion to reconsider and a joint motion to vacate the Board's order and for other relief filed on April 16, 1992. The motions ask that the Board vacate its April 9, 1992 order which directed the hearing officer to schedule this matter for hearing by April 16, 1992, and to finish all hearings by May 29, 1992. On April 9, 1992, when the Board issued its order the decision in this case was due July 2, 1992.

The motion to reconsider states that the Board failed to follow its own procedural rules by taking action on the Board's own motion without providing the parties an opportunity to reply. Further, the motion states that "[n]o provisions in the Board's procedural rules allow for such action on the part of the Board". The Board is not a party to this action; therefore, the Board is not subject to the procedural rules. Further, the Board is at a loss to understand the implication, by the movants, that the Board lacks the authority to control its own docket.

In this case, the decision due date was fast approaching and no hearing had been held nor had a hearing been scheduled. This case was originally filed 18 months ago and prior to this motion, the parties had taken no action on the record other than to waive decision deadline to a date certain. Under the Illinois Environmental Protection Act (Act), the Board must make a decision prior to the decision deadline or the permit could be deemed issued. Further, the Board is required to hold a hearing prior to issuing its decision. (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1040). The Act imposes a duty on the Board to insure that hearings are timely scheduled and held. Therefore, the Board set this case for hearing to avoid the any possibility that the decision deadline would be missed. (See Illinois Power Company v. Illinois Pollution Control Board, 68 Ill. Dec. 176, 445 N.E.2d 820 (1983)).

The parties have filed a waiver of the decision deadline

until October 30, 1992. The parties also state that they "believe it may be possible to accomplish settlement of this matter within 120 days". Further, the parties believe that a hearing at this time would be "an unproductive expenditure of Heico's, the Agency's and the Pollution Control Board's manpower and resources". (Motion at 3). Therefore, the Board will reconsider its order of April 9, 1992 and the Board will vacate the order setting this case for hearing. The Board directs the parties to submit a status report to be received by the Board no later than June 15, 1992. The Board notes that the June 15 date will allow the Board the time necessary to hold a hearing prior to the October 30, 1992 decision deadline, if a hearing is necessary.

IT IS SO ORDERED.

B. Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 23<sup>rd</sup> day of April, 1992, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board