

ILLINOIS POLLUTION CONTROL BOARD  
September 1, 1994

CATERPILLAR, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
ILLINOIS ENVIRONMENTAL	)	PCB 94-198
PROTECTION AGENCY,	)	(Variance)
	)	
Respondent,	)	
	)	
and	)	
	)	
INTERNATIONAL UNION, UNITED	)	
AUTOMOBILE, AEROSPACE AND	)	
AGRICULTURAL IMPLEMENT WORKERS	)	
OF AMERICA and LOCAL 974 <sup>1</sup>	)	
	)	
Intervenors.	)	

ORDER OF THE BOARD (by R.C. Flemal):

On July 21, 1994 Caterpillar, Inc. (Caterpillar), filed a petition for variance from the requirements to file a significant modification application found at 35 Ill. Adm. Code 814.104(c). On August 12, 1994 the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and Local 974 (collectively "UAW") filed an objection to the petition for variance, a request for hearing to be held, and a petition to intervene in the proceeding. No response to the petition to intervene has been filed. A number of other individuals also filed objections and requests for hearing. On August 23, 1994 the Illinois Environmental Protection Agency (Agency) filed its recommendation.

Section 37 of the Environmental Protection Act provides that any person may file a written objection to the grant of a variance within 21 days of filing of the petition for variance, together with a written request for hearing. If this is done, then a hearing shall be held. (415 ILCS 5/37 (1992).) In addition, 35 Ill. Adm. Code 104.141(a) allows for such objections to be accompanied by a petition to intervene in accordance with the intervention rules contained in 35 Ill. Adm. Code 103. Because UAW's petition for intervention satisfies the criteria

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<sup>1</sup> The parties should note that as of this date, this is the correct caption to use in this proceeding.

set forth in 35 Ill. Adm. Code 103.142, the Board allows UAW to intervene and sets this matter for hearing.

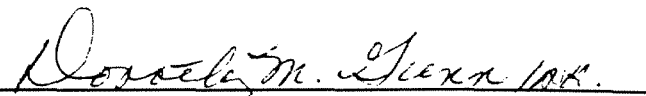
The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). A hearing officer will be assigned to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing 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, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now November 18, 1994; the Board meeting immediately preceding the due date is scheduled for November 3, 1994.

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.

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 14 day of September, 1994, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board