

ILLINOIS POLLUTION CONTROL BOARD
February 16, 1995

IN THE MATTER OF:)
)
PETITION OF HEPWORTH U.S.) AS 94-19
HOLDINGS, INC. FOR AN) (Adjusted Standard - Land)
ADJUSTED STANDARD FROM)
35 ILL. ADM. CODE 620.410)

ORDER OF THE BOARD (by M. McFawn):

On December 12, 1994, Hepworth U.S. Holdings, Inc. (Hepworth) filed a petition for an adjusted standard from the Board's groundwater quality standards at 35 Ill. Adm. Code 620.410. In connection with its petition, Hepworth waived its right to hearing. On January 24, 1995, Hepworth filed a certificate of publication demonstrating that notice of the petition had been published in the NewsTribune, City of LaSalle, on January 9, 1995. Subsequently, the Board received two requests for hearing: a January 24, 1995 request for hearing from Dale L. Stockley on behalf of the Town of Dimmick; and a January 25, 1995 request for hearing from Gary L. Gearhart.

The Board finds that the petition meets the minimum requirements for an adjusted standard petition set forth in 35 Ill. Adm. Code 106.705. Accordingly, since the Board has received requests for hearing, this matter shall proceed to hearing.

This is a type of case for which the Act prescribes no deadline for decision, although as noted the Act requires the petitioner to timely pursue disposition of the petition. Therefore, hearing must be scheduled and completed in a timely manner, consistent with Board practices and 35 Ill. Adm. Code Part 101 and Part 106, Subpart G. 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.

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.

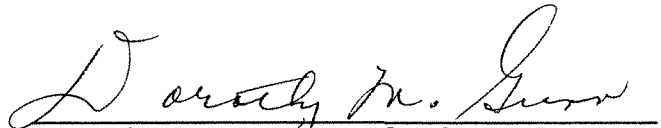
On February 9, 1995, the Illinois Environmental Protection Agency (Agency) filed its response to the petition. The Board finds that the Agency response is insufficient to meet the requirements of Section 106.714 of the Board's procedural rules. Section 106.714 provides, in relevant part:

The response shall recommend either a grant or denial of the proposed adjusted standard, and it shall set forth rationale which supports the Agency's conclusion.

In its response, the Agency has merely repeated the information contained in the petition. The Agency has provided no recommendation, either for grant or denial of the proposed adjusted standard, but instead states that the "Agency takes no position as to the Petitioner's Petition for Adjusted Standard." The Board finds this response does not satisfy Section 106.714, and directs the Agency to re-file its response in conformance with the requirements of 35 Ill. Adm. Code 106.714 within 30 days of this 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 16th day of February, 1995, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board