

ILLINOIS POLLUTION CONTROL BOARD  
April 8, 1993

JAMES RIVER PAPER COMPANY, INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 92-112  
 ) (Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by B. Forcade):

On March 26, 1993, the Illinois Environmental Protection Agency (Agency) filed a Motion to Extend Time to File Agency Record. The Board had previously granted an extension for the filing of the record until April 15, 1993. The Agency requests an additional 120 day extension. The decision deadline has been waived until November 19, 1993. The Agency notes that it has discussed the issues raised in the petition with the petitioner and believes that the issues will be moot due to a pending rule making related to 35 Ill. Adm. Code 218. The pending rule making is R93-9, Omnibus Cleanup of the Volatile Organic Material RACT Rules Applicable to Ozone Nonattainment Areas: Amendments to 35 Ill. Adm. Code Parts 203, 211, 218 and 219. This rule making was filed by the Agency as a fast-track rule making pursuant to 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (1992)) on March 16, 1993.

Section 28.5 requires the Board to send this rule making to second notice before August 3, 1993. At second notice the proposal is subject to a 45 day review period and approval by the Joint Committee on Administrative Rules (JCAR). The second notice period may be extended, if requested by JCAR. Within 21 days of a letter of no objection from JCAR, the Board will adopt a final order on the rule making. It is not unreasonable to assume that final action in R93-9 may not occur until October 21, 1993.

The Board notes that given these time frames, final action in the pending rule making will not occur before the date when hearings must be scheduled and may not occur before the decision deadline. The Board notes that it is the responsibility of the petitioner to file an appropriate waiver. If petitioner wishes to refrain from setting a hearing date in this matter until after

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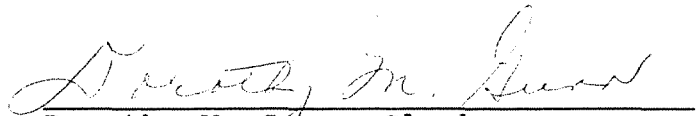
<sup>1</sup> The Act was previously codified at Ill. Rev. Stat. 1991, ch. 111½, par. 1001 et. seq. Section 28.5 was adopted by P.A. 87-1213 which became effective on September 26, 1992.

the completion of the pending rule making, a waiver extending the decision deadline to a date certain at least 120 days after the anticipated final action of the pending rule is required. If an additional waiver is not filed before July 23, 1993, this matter must be set for hearing. Given the current decision deadline of November 19, 1993, the hearing officer must set the date for the hearing before August 1, 1993.

The motion is granted and the Agency record is now due on August 23, 1993.

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 8<sup>th</sup> day of April, 1993, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board