

ILLINOIS POLLUTION CONTROL BOARD
April 8, 1993

CHEMICAL WASTE MANAGEMENT, INC.,)
)
Petitioner,)
)
v.) PCB 93-34
) (Permit Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by G. T. Girard):

On February 19, 1993, Chemical Waste Management (CWM) filed this RCRA permit appeal. On March 5, 1993, the Board received a "Motion to Dismiss" filed by the respondent and a "Motion for Clarification of Permit Conditions and to Consolidate with Case No. 93-35" filed by petitioner. The Board has not received responses on either motion.

The CWM motion asks that the Board enter an order "clarifying that all conditions in the RCRA permit modification dated January 21, 1993, became effective as of February 21, 1993, with the exception of V.c.D 12". (CWM mot. at 1.) CWM further states that it has "no objection to the operating conditions themselves. It [CWM] solely objects to Condition V.c.D.12". (CWM mot. at 3.) Condition V.c.D.12 provides:

12. Blank. (IEPA, pending further discussions with the Permittee [CWM], will issue condition #12 and others if necessary by the effective date of the permit. This condition shall address the actions to be taken by the Permittee, and the authority of the Agency to respond, to operating conditions exceedances.)

(Ag. mot. at 2.)

The Agency's motion to dismiss states that the effective date of the modification was February 21, 1993. (Ag. mot. at 2.) Further, the Agency states that:

As of Friday, February 19, 1993, the parties were unable to reach agreement on the enforcement authority language to be inserted. Ultimately, the Agency failed to insert any language for the "blank" condition within the 30 days specified in the "blank" condition.

(Ag. mot. at 2.)

Thus, the Agency argues that it believes it is inappropriate to

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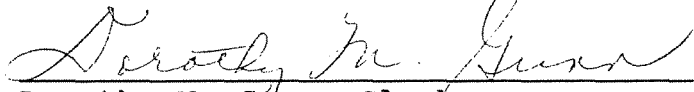
proceed with an appeal of the "blank" condition because it no longer has any applicability; the opportunity to insert language has closed. (Ag. mot. at 3.)

The Board finds that there is no issue left in this proceeding to resolve. Both parties agree that the permit modification was effective on February 21, 1993. Further, the sole condition appealed to the Board is a blank provision containing no substantive language. Therefore, the Board grants in part the motion to clarify by holding that the RCRA permit modification was in effect as of February 21, 1993 and the Board grants the motion to dismiss. As this proceeding is dismissed, the Board denies the motion to consolidate.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (But see also, 35 Ill. Adm. Code 101.246, Motions for Reconsideration, and Casteneda v. Illinois Human Rights Commission (1989), 132 Ill. 2d 304, 547 N.E.2d 437; Strube v. Illinois Pollution Control Board, No. 3-92-0468, slip op. at 4-5 (3d Dist. March 15, 1993).)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 24th day of April, 1993, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board