

ILLINOIS POLLUTION CONTROL BOARD

June 6, 2002

STEIN STEEL MILL SERVICES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-211
)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On May 31, 2002, Stein Steel Mill Services, Inc. (Stein) timely filed a petition asking the Board to review an April 26, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.206(a).

The Agency issued a notice of incompleteness concerning Stein's application for renewal of its Federally Enforceable State Operating Permit. The Agency stated that Stein and another company, National Steel, should be considered a single source under Section 39.5 of the Environmental Protection Act (415 ILCS 5/39.5 (2000)). Stein's facility is located at 20th and Edwardsville Road, Granite City, Madison County. Stein appeals on the grounds that the two companies are not a single source because they are controlled by separate entities and have different Standard Industrial Classification codes. Stein's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing; however, it strikes Stein's request for attorney fees, as the Board does not have statutory authority to award attorney fees in permit appeal cases.

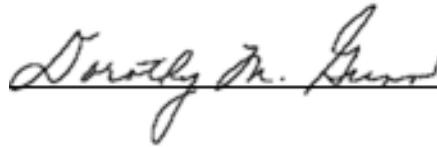
Stein has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only Stein may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Stein "may deem the permit issued." 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is September 28, 2002 (the 120th day after May 31, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for September 19, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 30, 2002 which is 30 days after Stein filed the

petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 6, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board