

ILLINOIS POLLUTION CONTROL BOARD  
May 25, 1989

ALLIED-SIGNAL, INC. )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 88-172  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon a May 16, 1989 Motion for Modification of the Board's May 11, 1989 Order filed by Allied Signal, Inc. (Allied). Allied requests that the Board modify its May 11 Order requiring an additional hearing to delete the order compelling the appearance of Allied's witnesses and to clarify that the Objectors, Association of Concerned Environmentalists (ACE), may make oral or written statements, but that they have no right to cross-examine witnesses.

While no response has been filed, the response period has not yet expired. However, circumstances surrounding this proceeding have changed sufficiently to enable the Board to address this issue with a view to resolving the problem. On May 19, 1989, Allied submitted a waiver of the decision date until August 31, 1989. The Board's May 11 Order was issued under the June 22, 1989 decision deadline.

The Board believes that this additional time may be helpful in arriving at an equitable resolution of the problems resulting from the notice defect. The Board is aware that at hearing on April 20, 1989, a representative of ACE was present and testified. ACE's representative stated:

I have a list of questions that we would like answers to. I imagine that we can't get them all today, but we would like to receive them on paper: What bio-monitoring plans will be implemented? How will they be conducted? Over what time period will they be conducted? Will the public be notified of when, what, how, and results of these tests? What are the impacts of 8.2 pounds of daily arsenic and 26 daily maximum on the Ohio River, and has the Ohio River sediment ever been tested downstream from Allied? If not, then what change in circumstances created this problem? Define dilution. If arsenic is a

heavy metal, then just exactly how does it mix with water? Is it true that Allied buys its flourspar from Mexico for a cheaper rate, and that this is the origin of some of the arsenic contamination? Where did Allied used to purchase its flourspar? Does Allied have an agenda for zero discharge?

(R. at 34.)

After the testimony of ACE's representative, Counsel for Allied stated:

I just have one comment, and that is, if you will furnish me with a copy of your written statement that has those questions you raised, some of the questions that you raised will be answered by reading the testimony ... Otherwise, we will be happy to attempt to answer those questions which might not be answered in that testimony, if we can.

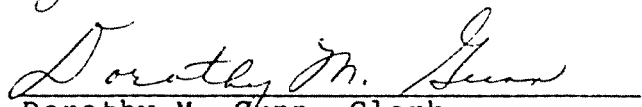
(R. at 37.)

In light of the particular circumstances of this case, and given the articulated willingness of Allied to answer, in writing, the questions of ACE, the Board believes that the written question and answer period should be formalized so as to permit ACE to obtain answers to its questions to facilitate its preparation for hearing. Therefore, ACE is directed to submit its questions to Allied, with a copy to the Board, no later than June 5, 1989. Allied is directed to submit its answers to the questions to ACE, with copies to the Board, no later than June 19, 1989.

The Board takes its action today so that the questions and answers can be completed in time for the Board to render a decision on Allied's motion at the June 22, 1989 Board Meeting. The Clerk is directed to send copies of this Order to Allied, the Agency, and ACE.

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 25<sup>th</sup> day of May, 1989 by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board