

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1990

NATIONAL STEEL CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 90-33
)	(Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. C. Marlin):

This matter is before the Board on a March 19, 1990 Motion to Dismiss filed by the Environmental Protection Agency (Agency).

The petitioner, National Steel Corporation, filed this appeal with the Board on March 7, 1990 to contest certain conditions of a permit issued by the Agency on January 30, 1990. On February 14, 1990, prior to filing the appeal, petitioner requested by letter that the Agency reconsider some of the conditions in the permit.

The Agency states in its motion that since the same permit is the subject of a pending permit application and of this appeal, there is no final action by the Agency for the Board to review under Section 40 of the Act. The Agency cites Caterpillar Tractor Co. v. IEPA, PCB 83-86, to support its motion.

The Board recognizes that the Agency correctly accepts requests for reconsideration as a permit reapplication. Therefore, there is no final action on the permit which the Board could review. Petitioner can still file an appeal with the Board to contest the Agency's ultimate decision on the permit reapplication. See, Joliet Sand and Gravel Co. v. IEPA, PCB 87-55 (June 10, 1987). The Board hereby grants the Agency's motion. This appeal is dismissed.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

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 12th day of April, 1990, by a vote of 7-0.

Dorothy M. Gunn, Clerk
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Illinois Pollution Control Board