

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1985

MARATHON OIL COMPANY)
(Champaign Terminal),)
)
Petitioner,)
)
v.) PCB 83-26
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On November 12, 1985, the Illinois Environmental Protection Agency ("Agency") and Marathon Oil Company ("Marathon") filed a "Stipulation of Fact and Recommendation (sic) Settlement". That document recites certain factual and procedural matters and prays "that the Board Order that permits be issued by the Agency in form exact to that attached hereto and labelled as Exhibit B without the objected to conditions". The Board hereby rejects the November 12 settlement.

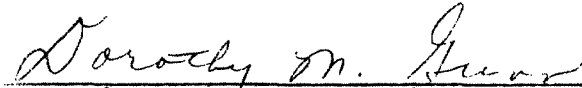
The Board has a series of prior Opinions rejecting settlement agreements in permit appeals. The rationale and history was most recently articulated in Electric Energy v. IEPA, PCB 85-14 (June 13, 1985):

The Board has had difficulty in dealing with settlements in permit appeal cases which involve Agency issuance of negotiated permits containing conditions for which no record exists "setting out sufficient technical facts and legal assertions to allow the Board to exercise its independent judgment and to make proper findings of fact and conclusions of law." Caterpillar Tractor Co. v. IEPA, PCB 79-180, Interim Order, June 2, 1983, p. 1-2. The Board has not issued Orders incorporating the terms of such stipulations as the Board does in enforcement cases. The Board has issued Orders dismissing the appeal and allowing ratification of a "voidable permit, e.g., Caterpillar, supra, Final Order, June 14, 1982; an Order simply dismissing the appeal, Village of Sauget v. IEPA, PCB 79-87, July 19, 1984; and an Order remanding the permit to the Agency, Caterpillar Tractor Co. v. IEPA, PCB 83-58, March 7, 1985.

The Board directs the parties to examine these cases and the concerns articulated therein, and to file with the Board not later than December 13, their preferences as to the disposition of this case.

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 31st day of November, 1985 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board