

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1987

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R86-10
211 & 215 ORGANIC MATERIAL EMISSION)
STANDARDS AND LIMITATIONS FOR)
SYNTHESIZED PHARMACEUTICAL)
MANUFACTURING PLANTS.)

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon an August 12, 1987, motion for interlocutory appeal of Hearing Officer's Order, filed by the Illinois Environmental Protection Agency (Agency). Abbott responded on August 20, 1987. The Board addressed the issue of Abbott's role at the August 25, hearing on August 20, 1987. Today's action addresses the issues remaining in the Agency's appeal and in Abbott's response.

First, Abbott argues that the appeal should be dismissed because the Agency has not followed "established Board precedent" for seeking an interlocutory appeal in that the Agency did not first request that the Hearing Officer grant the appeal. The Board finds that the Agency properly filed its appeal pursuant to 35 Ill. Adm. Code 103.140(f).

Second, the Agency requests that Abbott be prohibited from presenting data at hearing which is inconsistent with the data Abbott provided to the Agency's contractor, Mr. Ponder. Abbott objects to such a request. Abbott states that if contrary information is uncovered "it will provide it to the Agency as well as provide it in testimony."

The Board notes that the rules governing the admission of evidence in regulatory proceedings are not as strict as the rules applicable to judicial proceedings. The purpose of a hearing is to receive information -- as much relevant information as possible -- to promote an informed decision. In furtherance of that end, all material and relevant evidence will be admitted into the record. The Board is not persuaded that this practice ought to be restricted in this proceeding. Therefore, the Agency's motion is denied.

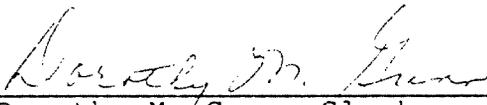
Third, the Agency requests that a fourth hearing date be set by the Board, to be held at the option of the Agency. The Agency is concerned that it may not have sufficient time to analyze the information Abbott presents on September 22, and that it may need an additional hearing date to respond. Abbott made no response to the issue of a fourth hearing.

The Board orders that the Hearing Officer schedule a fourth hearing, to be held no later than October 30, 1987. The Board orders this hearing to allow the Agency an opportunity to fully respond to evidence to be presented on September 22, 1987. The September 22 hearing will proceed as scheduled, with Abbott's complete presentation and with Agency cross-examination as time and circumstances permit. This fourth hearing will be the final hearing in this proceeding.

Finally, the Board notes its displeasure with the delay that has plagued this proceeding. The initial proposal was filed in February of 1986. The deadline for the promulgation of regulations (December 31, 1987) is rapidly approaching and in all probability cannot now be met. Although the Board understands that yet another amended proposal will be forthcoming, the Hearing Officer and the participants must strictly adhere to the schedule outlined above.

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 21st day of September, 1987 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board