

ILLINOIS POLLUTION CONTROL BOARD
October 9, 1986

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO TITLE 35,) R84-29
SUBTITLE D: MINE RELATED WATER)
POLLUTION, CHAPTER I, SECTION)
406.106)

INTERIM ORDER OF THE BOARD (by R.C. Flemal):

On July 11, 1986, the Board adopted for First Notice an Opinion and Order in this docket. First Notice was published at 10 Illinois Register 12827, August 1, 1986. Two comments were received during the First Notice period: one from the Illinois Coal Association ("ICA") on September 12, 1986, and the other from the Illinois Environmental Protection Agency ("Agency") on September 15, 1986.

Both the Agency and ICA comments underscore some areas of uncertainty and insufficiency in the record of this proceeding. In order to address these areas, which are more fully described below, the Board believes that another hearing is necessary and hereby directs the Hearing Officer to schedule same as expeditiously as possible.

In order that the upcoming hearing may be utilized effectively, the Board delineates the following items which it desires the participants to address at that time. By doing so, the Board hopes to ensure that the deficiencies which presently exist in the record will be remedied by the close of the next hearing, which is expected to be the last.

The Board desires the upcoming hearing to consist of the following activities:

1. A presentation of the results derived from the Agency's recent experimentation with the Sedimot II computer model, as described in paragraph four of the Agency comments.
2. Receipt of comments on 35 Ill. Adm. Code 406.102(i), as proposed by the Board in its First Notice Opinion and Order. The ICA and the Agency submitted written comments on this issue during the First Notice period.

These comments differed in their interpretation of, and suggested alterations to, section 406.102(i). The participants are encouraged to make any additional comments they may have regarding this section.

3. A clarification by the Agency of why it believes the Board's proposal is more stringent, in some regards, than the Federal limitations. The Agency espouses this position in paragraph three of its comments. In that same paragraph, the Agency indicates the necessity, in its view, of adding definitions for certain terms used in the Board proposal but not defined in Part 402. The Board would particularly appreciate, from any participant, suggested definitions for such terms.
4. A clarification by the Agency of the assertions made in paragraph two of its comments.
5. Additional testimony of Mrs. Linda Huff, President, Huff & Huff, Inc., the contractor which produced the Economic Impact Assessment ("EcIS") for this proceeding. The Board is especially interested in the testimony Mrs. Huff might offer in two areas. First, her perspectives on the Agency's projections derived through the use of the Sedimot II model. Second, any additional statements she may be able to give regarding the predicted economic ramifications of Alternative "B" of the Agency's March 15, 1985, proposal.
6. Additional testimony addressing the environmental effects of settleable solids.

In specifying the preceding topics, the Board is not limiting the material that may be placed into the record at hearing. The participants are free to submit materials pertaining to facets of this proceeding not discussed within the list found above. The Board notes, however, that because of the age of this docket and the number of hearings that have already been held within it, the Board would frown upon repetition of previously presented arguments.

Finally, the Board notes that it may, on its own initiative, produce an expert witness at the upcoming hearing for the purpose of providing additional technical evidence for the record. Whether such a person will in fact be produced is uncertain at this time, but the Board is hereby indicating to the participants that this is a possibility.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 9th day of October, 1986, by a vote of 6-0.

Dorothy M. Gunn, Clerk
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Illinois Pollution Control Board