

ILLINOIS POLLUTION CONTROL BOARD  
October 25, 1984

CATERPILLAR TRACTOR CO.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 83-58
	)	83-59
ILLINOIS ENVIRONMENTAL	)	Consolidated
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by B. Forcade):

On October 19, 1984, Caterpillar Tractor Company ("Caterpillar") filed a motion for continuance, the Agency was represented as having no objection.

First, the Board categorically rejects Caterpillar's request that this 1983 permit appeal be held in abeyance pending resolution of the 1984 regulatory proceeding, R84-28. The issue in a permit appeal is whether or not, based upon the facts of the application before the Agency, the applicant has provided proof that the activity in question will not cause a violation of the Act or the Board's regulations. Oscar Meyer, PCB 78-14, 30 PCB 397 (June 8, 1978). Subsequent regulatory activities are irrelevant to issues presently before the Board.

Second, Caterpillar's request to modify the hearing date is granted, but very reluctantly. The Board is firm in its conviction that this matter will either proceed to hearing expeditiously or it will be dismissed. If the hearing officer is not advised by the parties of a reasonable hearing date, then the hearing officer is clearly authorized to unilaterally set the hearing by 35 Ill. Adm. Code 102.122 and 102.160, as a method of avoiding delay. Here, the hearing officer's actions were not only authorized, they were clearly appropriate.

The Board directs that a hearing be scheduled within 10 days of the date of this Order and held within 40 days. If the parties cannot provide reasonable dates within this time frame, the hearing officer is directed to set hearing dates unilaterally.

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 October, 1984 by a vote of 5-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board