

ILLINOIS POLLUTION CONTROL BOARD
January 23, 1986

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

ORDER OF THE BOARD (by B. Forcade):

On November 21, 1985, the Board rejected the parties Stipulation and required filings on future proceedings in this case. On December 13, Marathon Oil Company ("Marathon") filed a reply requesting the Board to resolve the issue on the merits and reverse the Agency's imposition of condition 5(ii) and (6). The Agency filed a Motion to Dismiss urging that the matter is moot. Marathon responded on January 21, 1986, that the issue is not moot and requested the Board to deny the motion to dismiss.

The motion to dismiss is denied. The only information before the Board is that the permit is in effect and Marathon objects to two conditions therein. In this circumstance, the case is not moot.

The Board orders that this matter proceed to hearing on the merits and briefing. At hearing, the parties are encouraged to address the following matters:

1. The "permit" attached as exhibit A of the November 19, 1985, Stipulation is not identical to the "Permit" attached to the March 4, 1983, permit appeal. Contested condition No. 6 is not present in the November 19, 1985, filing and the Board cannot determine if it is in effect or not.
2. What equipment at the Marathon facility would be affected by condition No. 5(ii) and what equipment by condition No. 6?

Following hearing, the Board expects briefs on the Agency's authority to impose the contested conditions. Additionally, the Board orders the parties not to file pleadings jointly captioned for this case and PCB 83-29, these cases are not consolidated.

Hearing must be scheduled within 14 days of the date of this Order and completed within 60 days of the date of this Order. The hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, written schedule for submission of briefs if any and all actual exhibits to the Board within 5 days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and in no event later than 70 days from the date of this Order.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. This schedule will only provide the Board a very short time period to deliberate and reach a decision before the due date. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

The hearing officer may extend this schedule only on a waiver of the decision deadline by the petitioner and only for the equivalent or fewer number of days that the decision deadline is waived. Such waivers must be provided in writing to the Clerk of the Board.

Because of requirements regarding the publication of notice of hearing, no scheduled hearing may be cancelled unless the petitioner provides an open waiver or a waiver to a date at least 75 days beyond the date of the motion to cancel hearing. This should allow ample time for the Board to republish notice of hearing and receive transcripts from the hearing before the due date. Any order by the hearing officer granting cancellation of hearing shall include a new hearing date at least 40 days in the future and at least 30 days prior to the new due date and the Clerk of the Board shall be promptly informed of the new schedule.

Because this proceeding is the type for which the Illinois Environmental Protection Act sets a very short statutory deadline for decisionmaking, absent a waiver, the Board will grant extensions or modifications only in unusual circumstances. Any such motion must set forth an alternative schedule for notice, hearing, and final submissions, as well as the deadline for decision, including response time to such a motion. However, no such motion shall negate the obligation of the hearing officer to set a date pursuant to this Order.

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 23rd day of January, 1986, by a vote of 7-0.

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