

ILLINOIS POLLUTION CONTROL BOARD
August 2, 1984

INTERLAKE, INC.,)
)
Petitioner,)
)
v.) PCB 84-41
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)


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

On April 4, 1984, Interlake, Inc. filed a petition for review of an Illinois Environmental Protection Agency (Agency) permitting decision. Hearing was authorized on April 5, 1984, but no hearing has been scheduled or held. Pursuant to Section 40(a)(2) of the Environmental Protection Act, Board decision was due on or before July 5, 1984. On July 13, 1984, the Board received an affidavit from its hearing officer who was assigned this proceeding that he had attempted at least three times to establish a hearing date with attorneys and or paralegals who were involved with this case on behalf of Interlake, but that he was unsuccessful in obtaining possible dates. On July 31, 1984, two attorneys and a paralegal involved with this case on behalf of Interlake filed affidavits as to their good faith efforts to cooperate with the hearing officer in this matter.

Absent actions on behalf of petitioner which either explicitly waive or which so impede the proceedings as to constitute an implicit waiver and in the absence of circumstances which render a timely hearing impossible, the final responsibility to insure that a timely hearing is held rests with the Board (see Marquette Cement Manufacturing Company v. IEPA and IPCB, 84 Ill. App. 3d 192, 405 N.E.2d 512 (1980)). Therefore, Interlake may now "deem the permit issued" pursuant to Section 40(a)(2), and this docket is hereby ordered to be closed.

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 2nd day of August, 1984 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board