

ILLINOIS POLLUTION CONTROL BOARD

April 4, 1996

WHITE CAP, INC,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 96-191
	)	(Variance - Air)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Theodore Meyer):

On March 6, 1996 White Cap, Inc. (White Cap) filed a petition for an extension of variance regarding its facility located at 1819 North Major Avenue, Chicago, Cook County, Illinois. White Cap also filed a Motion to Incorporate Documents by Reference to include the record of its current variance granted in Continental White Cap, Inc. v. IEPA (April 22, 1993) PCB 92-155, 141 PCB 17.

On April 1, 1996 the Illinois Environmental Protection Agency (Agency) filed a Motion to File Agency's Response to Motion to Incorporate Documents by Reference Instanter, and the Agency's Response to Motion to Incorporate Documents by Reference. The Agency states that due to illness and heavy workloads the Agency's review of White Cap's motion was delayed. The Agency also states that since White Cap's variance was first granted, subsequent extensions have since been assigned to three different counsel and the Agency has relocated twice, thereby making it difficult to determine if all the necessary information is in its files. Therefore, the Agency requests White Cap to provide a list of specific documents to be incorporated by reference so that the Agency can make an informed recommendation.

On April 2, 1996 the Agency timely filed its Motion for Extension of Time in Which to File Recommendation, restating the circumstances set forth above and requesting an extension until May 3, 1996. The Agency asserts that White Cap has agreed with this extension request and will not be prejudiced by it.

The Board hereby grants the Agency's motion to file instanter and accepts its response to White Cap's motion. In light of the Agency's changes in personnel and locale, the Board grants White Cap's motion to incorporate documents by reference conditioned upon White Cap providing the Agency and the Board with a list of the specific documents to be incorporated.

The Board also grants the Agency's motion for an extension of time to file its recommendation on or before May 3, 1996. This matter is accepted for hearing.

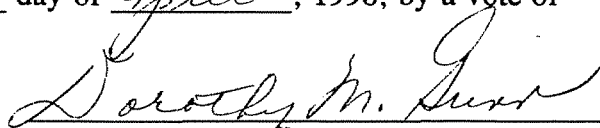
The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearings so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory decision deadline or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now July 3, 1996 (the 120th day from March 6, 1996 being July 4, 1996, a holiday); the Board meeting immediately preceding the due date is scheduled for June 20, 1996.

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. The hearing officer and the parties are encouraged to expedite this proceeding. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its recommendation for disposition of the petition within 30 days of filing the petition.

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 4<sup>th</sup> day of April, 1996, by a vote of 7-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board