

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1994

MARATHON OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 94-27
) (Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by M. McFawn):

On January 14, 1994 Marathon Oil Company (Marathon) filed a motion to have two documents declared "not subject to disclosure" pursuant to Section 7 of the Environmental Protection Act (415 ILCS 5/7)(Act). In its motion, Marathon seeks protection of a permit and permit application it purports to have submitted along with the petition for variance. In fact, no such documents were filed.

Since the Board cannot make a determination until it has reviewed the documents in question, Marathon is directed to resubmit its application. When filing, Marathon should include a new motion to have the documents protected, which clearly states the grounds on which protection is sought, e.g., as trade secrets, secret manufacturing processes, or confidential data. (See 35 Ill. Adm. Code Section 101.161 and Part 120.) When a proper application is submitted, the documents will be protected from disclosure while in the Board's possession until the Board makes its determination and the time for appeal has expired. (See 35 Ill. Adm. Code Section 101.161(c).)

We note that Marathon has similarly moved to protect a permit and permit application in PCB 94-26, its permit appeal. Protection was denied as to the permit, and Marathon was directed to designate the portions of the application for which protection is sought. (See Marathon Oil Company v. IEPA, (February 17, 1994) PCB 94-26.) If the permit and permit application in this motion are the same documents petitioner filed in its permit appeal, that order will guide our disposition. If the permit and permit application in this action are different, a separate inquiry in accordance with Section 7 of the Act will be necessary.

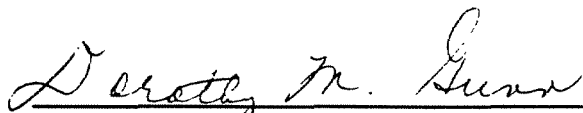
Additionally, on February 15, 1994, the Agency filed a Motion to Extend Time to File Recommendation. In this motion, the Agency requested that it be given until March 7, 1994 to file its recommendation which was due February 14, 1994. A supporting affidavit indicates that the motion is based on technical deficiencies in the petition, and has been agreed to by

petitioner.

The Board hereby grants the Agency's motion. The Agency is directed to file its recommendation on or before March 7, 1994.

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 17th day of February 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board