

ILLINOIS POLLUTION CONTROL BOARD
March 9, 1989

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 84-92
)
RICHARD KROHN and PARKWAY)
BANK & TRUST CO., as)
Trustee under Trust)
No. 4730,)
)
Respondents.)

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

This matter is before the Board upon its own motion. On June 3, 1988, an executed Stipulation and Proposal for Settlement (stipulation) was filed with the Board. On June 16, 1988, the Board adopted an Order denying acceptance of the stipulation and stating that "[i]f the Board does not receive an amended stipulation, curing the noted defect, within 90 days of the date of this Order, the Board will schedule an additional hearing in this matter." On November 14, 1988 (151 days later), the parties filed a joint motion for extension of time to file an amended stipulation, requesting until February 17, 1989 to file the amended stipulation. On November 17, 1988, the Board granted the motion. To date, no amended stipulation has been filed, nor has any reason been given for failure to comply with the Board Order.


It appears to the Board that this proceeding suffers for want of prosecution. In a recent Order (Modine Manufacturing Company v. Illinois Environmental Protection Agency, PCB 87-124, November 17, 1988), the Board recognized the need to tighten its procedures. Consistent with Modine, the Board will tolerate neither unreasonable noncompliance with a Board Order nor unjustifiable lack of prosecution of a proceeding. Section 107.101(c) of the Board's procedural rules (35 Ill. Adm. Code 107.101(c)) clearly provides that the Board may dismiss a proceeding where a party unreasonably fails to comply with a Hearing Officer or Board Order. Thus, the Board today, on its own motion, hereby dismisses this proceeding without prejudice.

The Board recognizes that its Order of June 16, 1988, states that, in the event an amended stipulation is not filed, additional hearing would be scheduled. However, given the subsequent history of this proceeding the Board no longer

believes an Order scheduling additional hearing is appropriate. If and when the Complainant is prepared to prosecute this proceeding, a new docket may be opened.

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 9th day of March, 1989 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board