

ILLINOIS POLLUTION CONTROL BOARD
April 25, 1991

NATIONAL STEEL CORPORATION)
GRANITE CITY STEEL DIVISION,)
)
Petitioner,)
)
v.) PCB 90-114
) (Permit Appeal)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J. C. Marlin):

This matter is before the Board on a Motion for Summary Judgment filed by the Illinois Environmental Protection Agency ("Agency") on April 1, 1991. The motion requests the Board to grant summary judgment against National Steel Corporation, Granite City Steel Division on their appeal of permit conditions contained in permit #88070071 dated January 30, 1990. The Agency submits the Permit Record in support of its motion. Granite City Steel Division filed a Memorandum of Law in Opposition to Motion for Summary Judgment on April 12, 1991. The motion was accompanied by a motion to file instanter. That motion is granted.

In order for the Agency to prevail on its motion it must show that no issues of material fact exist in its permit appeal such that it is entitled to judgment in its favor as a matter of law. In an appeal of permit conditions it is the burden of the petitioner to demonstrate that the conditions imposed by the Agency are not necessary to accomplish the purposes of the Act and are not consistent with the regulations promulgated by the Board thereunder. Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, par. 1039. To comply with its statutory burden of proof the petitioner must file a petition with the Board which contains:

- A) Citation of the particular standards under which a permit is sought;
- B) A complete and precise description of the facility, equipment, vehicle, vessel or aircraft for which a permit is sought, including its location;

- C) A complete description of contaminant emissions and of proposed methods for their control; and
- D) Such other materials as may be necessary to demonstrate that the activity for which the permit is sought will not cause a violation of the Act or the regulation.

35 Ill. Adm. Code
105.102 (a)(2)

In essence, the Agency motion claims that the petitioner has failed to submit sufficient information in its permit appeal to meet this burden. We agree.

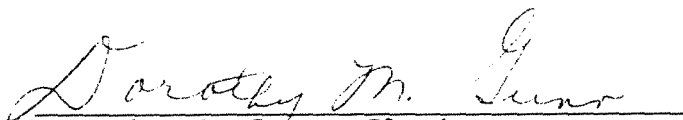
The permit appeal filed by Granite City Steel Division contains no information describing the contaminant emission at issue in this appeal and of its proposed methods for control. No additional information was submitted to demonstrate that the activity for which the permit is sought, will not cause a violation of the Act or Board regulations. Rather, the petitioner conclusorily states that the special conditions are "arbitrary, unreasonable, capricious", "unlawful" "unduly burdensome" and "violate constitutional protections".

The petition is insufficient to raise a question that the conditions imposed are not necessary to accomplish the purposes of the Act and are not consistent with the regulations promulgated by the Board thereunder. We do not believe, however, that summary judgment is the appropriate remedy at this stage of the proceeding. Moreover, Petitioner's Memorandum of Law also indicates that substantial questions exist concerning the propriety of grant of the Agency's motion. Therefore, we grant petitioner 14 days from the date of this Order to file an amended petition with the Board, to be received by the Clerk of the Board no later than 4:30 p.m., May 9, 1991. Filing of an amended petition restarts the timeframe in which the Board must reach its decision in this matter.

IT IS SO ORDERED.

J. Anderson and J. D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25th day of April, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board