

ILLINOIS POLLUTION CONTROL BOARD
August 4, 1988

AMERICAN HOECHST CORP.,)
)
 Petitioner,)
)
 v.) PCB 86-150
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board pursuant to our Order of May 19, 1988 and Petitioner's Motion and Response to Order of Board, dated July 21, 1988.

Because this docket has languished with little apparent activity, on May 19, 1988 the Board issued an Order requesting an up-dated status report on the Petition For Variance including an up-dated description of Petitioner's current operation and an indication of whether Petitioner intended to proceed with this matter. The Order cautioned as follows: "If such status report is not filed within forty-five days of the date of this Order, this matter will be subject to dismissal." Because of the Independence Day holiday, Petitioner's report was due on July 5, 1988.

On July 21, 1988, Petitioner filed its Motion For Leave To File Instanter and Response To Order Of Board. The Motion For Leave To File Instanter requests leave to file the accompanying response. In support of the request the Motion alleges as follows:

"As more fully set forth in the Response To Board Order, counsel was awaiting the commencement of certain actions prior to filing a response. Counsel anticipated that these actions would commence shortly after the date by which a Response was due. Unfortunately these events were delayed ... "

The Motion For Leave To File Instanter is clearly inadequate; and it is denied. The Motion was filed fully sixteen days beyond the due date. Additionally, the only explanation for this tardiness is a vague reference to "the commencement of certain actions." Finally, the Board notes that by the language

of the Motion itself, Petitioner never intended to file the requested documents on the due date. The language of the Motion demonstrates that whatever the nature of the "certain actions", these would not commence until AFTER the due date. Thus, even if the commencement of "certain actions" was not delayed, Petitioner, nonetheless, did not intend to timely provide the requested data. At no time does the Motion explain why a Motion to extend was not filed prior to the deadline. At no time does the Motion or Response explain why an appropriate motion was not filed until July 21, 1988.

In reviewing the Response To Board Order the Board notes that it was a business decision of Petitioner (to close the Ottawa plant) which, it is claimed, necessitated additional discussions with the Agency.


Additionally, Petitioner has failed to explain why construction delays and additional negotiations with the Agency prevented it from filing the requested documents in the forty-five days set forth in the Board's Order of May 19, 1988.

Finally, the Board notes that even the current filings fail to contain the data set forth in the May 19, 1988 Order and failed to explain why this data has not yet been submitted.

As noted above, the May 19, 1988 Order contained a caveat, warning that this action was subject to dismissal if the requested data was not filed in forty-five days (July 5, 1988). Because the data were not submitted, this action is dismissed; the docket is 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 4th day of August, 1988 by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board