

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1985

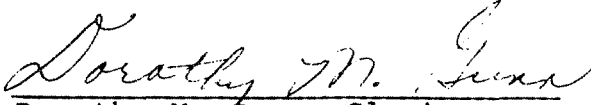
BEKER INDUSTRIES CORP.,)
)
Petitioner,)
)
v.) PCB 85-146
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

The Illinois Environmental Protection Agency (Agency) filed a Motion to Dismiss this permit appeal on October 18, 1985. Petitioner filed a response in agreement on December 19, 1985. The permit appeal was filed on October 2, 1985. The Agency states that on September 27, 1985 it reopened petitioner's permit application and thus, a final decision is not due from the Agency until December 26, 1985. The Board has previously held that when a permit application is reopened prior to the filing of a permit appeal, there has been no final action by the Agency for the Board to review under Section 40 of the Act. Abbott Laboratories v. IEPA, PCB 81-33, March 19, 1981; Caterpillar Tractor Co. v. IEPA, PCB 83-86, October 19, 1983. Since that is the case here, the Motion to Dismiss is hereby granted. The Board notes that this dismissal in no way prejudices Beker's right to appeal the Agency's final decision on the subject permit.

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 20th day of December, 1985, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board