

ILLINOIS POLLUTION CONTROL BOARD  
April 27, 1989

CONTAINER CORPORATION OF AMERICA, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 87-183  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the Joint Motion To Extend Briefing Schedule, filed with the Board on April 25, 1989. The parties recite in the motion that, pursuant to the Board's Order of April 6, 1989, a hearing was held in this matter. Both parties have presented their cases and rested. At issue is the appropriate briefing schedule.

The parties at hearing requested the Hearing Officer to set a briefing schedule under which Petitioner would be allowed three weeks from the anticipated date of receipt of written hearing transcripts in which to file its opening brief, the Respondent would have three weeks for its response, and the Petitioner would have one week to reply. According to the Joint Motion, the Hearing Officer agreed this schedule would normally be considered reasonable but stated that, based on his reading of the Board's April 6 Order, he did not have discretion to allow such a schedule. Instead, the Hearing Officer set a very short briefing schedule, and ordered simultaneous briefs on or before May 9, 1989, approximately seven working days after the transcript is expected.

The parties request the Board to set a briefing schedule along the lines originally requested, with Petitioner's opening brief due by May 19, 1989, the Respondent's response due by June 9, 1989, and Petitioner's reply due by June 16, 1989. The parties state that this schedule would comply with the letter and the spirit of the Board's April 6, 1989 Order, and contend that the Hearing Officer adopted too narrow a reading of that Order.

The Hearing Officer correctly interpreted the Board's Order of April 6, 1989 as favoring the prompt resolution of this case. Noting a history of unacceptable delay in this proceeding, the Board in that Order demanded that hearings be concluded as

soon as possible and authorized the Hearing Officer "to take all necessary steps to ensure that the record in this matter is completed promptly" (p. 3). Clearly, a briefing schedule that might be reasonable in the "normal" case may not be appropriate in a proceeding such as that before the Board in this docket.

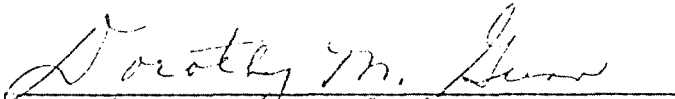
However, the Board will not require simultaneous briefs. An abbreviated responsive briefing schedule from that requested will promote a prompt completion of the record while avoiding the "problems and confusions inherent in a simultaneous briefing situation" alluded to by the movants (Jt. Mt. at 3). The rather more draconian measure of requiring simultaneous briefing remains a tool appropriate in some cases, as where a specific deadline for completion of the record or for final action is set by Board Order or by statute.

In keeping with the goals espoused by the Board's April 6, 1989, Order, the Board hereby establishes the following briefing schedule:

- |    |                                 |              |
|----|---------------------------------|--------------|
| a. | Petitioner's post-hearing brief | May 12, 1989 |
| b. | Respondent's responsive brief   | May 26, 1989 |
| c. | Petitioner's reply brief        | June 5, 1989 |

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 3<sup>rd</sup> day of April, 1989, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board