

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

CTI DEVELOPMENT, LLC,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY,

Respondent.

PCB NO. 2021-110

(VARIANCE-LAND)

**NOTICE OF FILING**

To: Mr. Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Suite 11-500  
Chicago, Illinois 60601  
**(VIA ELECTRONIC MAIL)**

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 N. Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
**(VIA ELECTRONIC MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board MOTION TO CANCEL HEARING, a copy of which is herewith served upon you.

Respectfully submitted,

CTI DEVELOPMENT, LLC  
Petitioner,

DATE: June 9, 2021

By: /s/ Jennifer M. Martin  
One of Its Attorneys

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**CERTIFICATE OF SERVICE**

I, Jennifer M. Martin, the undersigned, hereby certifies that the attached MOTION TO CANCEL HEARING was served via electronic mail upon the following:

Mr. Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Suite 11-500  
Chicago, Illinois 60601

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 N. Grand Avenue East  
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/s/ Jennifer M. Martin

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**MOTION TO CANCEL HEARING**

CTI Development, LLC, (“Petitioner”), through its attorneys, hereby moves to have the hearing scheduled for July 7, 2021 canceled pursuant to 35 Ill. Adm. Code 101.510. In support of its motion, Petitioner states as follows:

1. On May 11, 2021, Petitioner filed a Petition for Variance seeking relief from the requirement in 35 Ill. Adm. Code 845.200(a)(4).

2. On June 1, 2021, a Notice of Hearing was entered in this matter, scheduling the hearing on the Petition for Variance for July 7, 2021.

3. Petitioner has been in discussions with the Illinois Environmental Protection Agency (“Agency”) regarding the substance of the Petition.

4. As a result of those discussions, Petitioner plans to move to file an Amended Petition per 35 Ill. Adm. Code 104.226.

5. On June 7, 2021, Petitioner filed a 6-month waiver of the statutory decision deadline in this matter, agreeing to a waiver of the decision deadline until March 7, 2022.

6. Additionally, on June 7, 2021, Petitioner and the Agency filed an Agreed Motion for Extension of Time to extend the deadlines for the Agency to file a Recommendation in this

matter and to extend the deadline for the Agency to file a motion to dismiss. The Motion for Extension was based on the fact that Petitioner plans to move to file an Amended Petition in this matter.

7. Given that Petitioner plans to move to file an Amended Petition in this matter and that a limited waiver of the statutory decision deadline has been filed, Petitioner requests that the hearing scheduled for July 7, 2021 be canceled and rescheduled for a later date.

8. Pursuant to 35 Ill. Adm. Code 101.510(a):

Unless the Board or hearing officer orders otherwise, the hearing officer may grant motions to cancel hearings that are filed no fewer than ten days or, if all parties agree to the motion, five days before the scheduled hearing date. The hearing officer may grant a motion filed after the prescribed time only if the movant demonstrates that the movant will suffer material prejudice if the hearing is not canceled.

9. Per 35 Ill. Adm. Code 101.510(b), Petitioner proposes October 25, 2021 to reschedule the hearing.

10. Additionally, pursuant to 35 Ill. Adm. Code 101.510(b), an affidavit supporting the facts of this motion is attached as Exhibit 1 hereto.

11. As demonstrated by the attached affidavit, this request to cancel the hearing is not due to the movant's lack of diligence.

12. Additionally, Petitioner and Respondent will suffer material prejudice if the hearing is not canceled. Based on discussions with the Agency, Petitioner plans on moving to file an Amended Petition in this matter. Because of this, the parties have agreed to move to extend the deadlines for the Agency to file a Recommendation and file any motion to dismiss. If the July 7, 2021 hearing is not rescheduled, Petitioner and Respondent will be required to operate on a very tight timeframe to file an Amended Petition and Recommendation, respectively, before the scheduled hearing.

13. Petitioner's limited waiver of the decision deadline and the proposed date for the rescheduled hearing allow enough time for the Board to reschedule the hearing, provide the required notice of the rescheduled hearing, complete the hearing, and deliberate and decide the matter, pursuant to 35 Ill. Adm. Code 101.510(c).

14. Counsel for Petitioner has conferred with counsel for Respondent, who indicated that Respondent has no objection to the granting of this motion.

WHEREFORE, CTI Development, LLC respectfully requests the Hearing Officer to cancel the July 7, 2021 hearing and reschedule the hearing for October 25, 2021.

Respectfully submitted,  
CTI Development, LLC.  
Petitioner,

Date: June 9, 2021

By: Jennifer M. Martin  
Jennifer M. Martin

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**AFFIDAVIT OF JENNIFER M. MARTIN**

My name is Jennifer M. Martin. I am an adult citizen of the State of Illinois over twenty-one years of age. I am of sound mind, have personal knowledge of the matters set forth in this affidavit, and am competent to give this affidavit.

1. On May 11, 2021, Petitioner filed a Petition for Variance seeking relief from the requirement in 35 Ill. Adm. Code 845.200(a)(4).

2. On June 1, 2021, a Notice of Hearing was entered in this matter, scheduling the hearing on the Petition for Variance for July 7, 2021.

3. On June 2, 2021, Petitioner and the Illinois Environmental Protection Agency (“Agency”) participated in a telephone conference to discuss the Petition.

4. During that teleconference, the Petitioner and the Agency discussed the substance of the Petition.

5. As a result of the discussions with the Agency, the Petitioner plans to move to file an Amended Petition in this matter.

6. On June 7, 2021, Petitioner filed a 6-month waiver of the statutory decision deadline in this matter, agreeing to a waiver of the decision deadline until March 7, 2022.

7. Additionally, on June 7, 2021, Petitioner and the Agency filed an Agreed Motion for Extension of Time to extend the deadlines for the Agency to file a Recommendation in this matter and to extend the deadline for the Agency to file a motion to dismiss. The Motion for Extension was based on the fact that Petitioner plans to move to file an Amended Petition in this matter.

8. Given that Petitioner plans to move to file an Amended Petition in this matter and that a limited waiver of the statutory decision deadline has been filed, Petitioner is requesting that the hearing scheduled for July 7, 2021 be canceled and rescheduled for a later date pursuant to 35 Ill. Adm. Code 101.510.

9. Petitioner and Respondent will suffer material prejudice if the hearing is not canceled. Based on discussions with the Agency, Petitioner plans on moving to file an Amended Petition. Because of this, the parties have agreed to move to extend the deadlines for the Agency to file a Recommendation and file any motion to dismiss. If the July 7, 2021 hearing is not rescheduled, Petitioner and Respondent will be required to operate on a very tight timeframe to file an Amended Petition and Recommendation, respectively, before the scheduled hearing.

10. Petitioner is diligently working on an Amended Petition.

11. Petitioner's Motion to Cancel Hearing is Petitioner's first cancellation request in this matter. No other Requests to Cancel Hearing have been filed in this proceeding.

12. Petitioner's request to cancel the hearing is not due to Petitioner's lack of diligence. Petitioner filed its Petition on May 11, 2021 and timely proceeded with causing publication of notice of the Petition pursuant to 35 Ill. Adm. Code 104.214. Petitioner did not file a waiver of the statutory decisions deadline prior to June 7, 2021 because the Petitioner was in discussions with the Agency regarding the sufficiency of the Petition and Petitioner was

conducting internal deliberations regarding the necessity of filing an Amended Petition. As a result of those discussions with the Agency and internal deliberations, Petitioner now plans to move to file an Amended Petition.

13. Counsel for Petitioner has conferred with counsel for Respondent, who indicated that Respondent has no objection to the granting of Petitioner's request to cancel and reschedule the July 7, 2021 hearing.

**Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.**

6/9/21  
Date

Jennifer M. Martin / kgz  
Jennifer M. Martin