

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1996

WEST SUBURBAN RECYCLING)
AND ENERGY CENTER, L.P.,)
)
Petitioner,)
)
v.) PCB 96-155, 96-156
) Consolidated
) (Permit Appeal - Land & Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by R.C. Flemal):

On January 23, 1996 the Illinois Environmental Protection Agency (Agency) filed a Motion for Extension of Time to File the Administrative Record with regards to PCB 96-155 and PCB 96-156. On January 25, 1996 West Suburban Recycling and Energy Center, L.P. (West Suburban) filed an objection to the Agency's motion.

West Suburban filed the instant petitions for review of denial of air quality construction permit and denial of solid waste development permit with the Board on January 8, 1996. The Agency has not indicated when it received the petition. Pursuant to Board procedural rule 105.102(a)(4), the Agency was required to file the entire Agency record of the permit application with the Board within 14 days of notice of the petition. (35 Ill. Adm. Code 105.102(a)(4).) The Agency record was therefore due on January 22, 1996.

The Agency requests an extension to file the record until after the statutory decision deadline in the consolidated appeals of PCB 95-119 and PCB 95-125.¹ The current statutory decision date in PCB 95-119 and PCB 95-125 is March 29, 1996. Hearing will be held for PCB 95-119 and PCB 95-125 on February 9, 1996, with the strong likelihood of additional hearings.

The Board's statutory decision due date for the instant permit appeals, PCB 96-155 and PCB 96-156, is May 7, 1996. No hearing has yet been set in these matters.

¹ Consolidated PCB 95-119 and PCB 95-125 are also permit appeals filed by West Suburban for review of denial of air quality construction permit and denial of solid waste development permit.

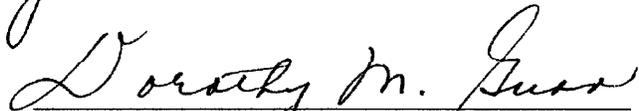
West Suburban objects to granting the Agency any additional time to file the record in the instant proceeding. West Suburban states that anything less than the full time period anticipated by Board regulation is entirely inappropriate and would deny it due process.

In consideration of the similarity of these permit appeals and the Board's decision deadlines, the Board will allow the Agency additional time to file the record. The Board notes that the Agency record must include the application, correspondence with the applicant, and the denial letter as set forth in 35 Ill. Adm. Code 105.102(a)(4), all of which West Suburban should currently have in its possession. However, the Board realizes the Agency record may include additional information which West Suburban may not currently have in its possession and upon which West Suburban may rely at hearing.

Nevertheless, the Board cannot grant the Agency until March 29th to file the Agency record without a waiver of the Board's decision deadline in PCB 96-155 and PCB 96-156. As West Suburban has indicated, the Board must allow sufficient time for West Suburban to review the Agency record prior to hearing. Likewise, the Board must allow time for scheduling and conduct of the hearing, the possible need for subsequent filings, and Board deliberation on the matters. Therefore, the Board hereby grants the Agency's Motion for Extension of Time to File the Administrative Record in PCB 96-155 and PCB 96-156 until February 22, 1996.

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 1st day of February, 1996, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board