

ILLINOIS POLLUTION CONTROL BOARD

December 19, 1996

LIONEL P. TREPANIER, DANIEL	)	
MILLER, WES WAGER, MAUREEN	)	
COLE, LORENZ JOSEPH, MAXWORKS	)	
GARDEN COOPERATIVE and AVI	)	
PANDYA,	)	
	)	
Petitioners,	)	
	)	
v.	)	PCB 97-50
	)	(Enforcement - Citizens, Air)
SPEEDWAY WRECKING COMPANY,	)	
	)	
Respondent.	)	
	)	

ORDER OF THE BOARD (by K.M. Hennessey):

This case involves the demolition of several buildings in the area of Halsted and Maxwell streets in the City of Chicago. Petitioners, each of whom resides or works near the buildings at issue, allege that the demolitions have resulted in or will result in air pollution and open dumping. Petitioners therefore allege that the respondent has violated, or will violate, various provisions of the Illinois Environmental Protection Act (Act).

Now pending before the Board is petitioners' motion for leave to file a response to the reply of the Board of Trustees of the University of Illinois (University), which petitioners filed on December 3, 1996. For the reasons stated below, the Board denies the motion and does not accept the response for filing.

Petitioners originally named as respondents the University, other unknown owners and Speedway Wrecking Company (Speedway). The University filed a motion to dismiss the complaint on the grounds that it had not been properly served with the complaint and that the Board therefore lacked personal jurisdiction over the University. The University also argued that the complaint should be dismissed for a variety of other reasons. Petitioners filed a response and an amended response to the University's motion to dismiss. The University filed a motion for leave to file a reply to petitioners' response and amended response. In that reply, the University did not put forth any argument regarding personal jurisdiction, but instead relied on other arguments in favor of dismissal. Petitioners then filed a motion for extension of time to file a response to the University's reply.

On November 21, 1996, the Board dismissed the University on the grounds that the Board lacked personal jurisdiction over the University. Given that ruling, the Board found that it was not necessary to rule on the University's other arguments for dismissal. Accordingly, the Board also denied petitioners' motion for extension of time to file a response addressing the University's other arguments for dismissal.

Petitioners now renew their motion for leave to file a response regarding the University's other arguments for dismissal. Because the University is no longer a party to this case, however, it is not necessary or appropriate for petitioners to file a response regarding those arguments. Accordingly, the Board denies petitioners' motion and does not accept petitioners' response for filing.<sup>1</sup>

The Board notes that its November 21, 1996 order does not preclude petitioners from bringing the University into this case through proper service of process. The Board further notes that the Board has accepted for hearing petitioners' case against the remaining respondent, Speedway. As stated in that order, the hearing officer should set this matter for hearing and this case should proceed as expeditiously as possible.

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 \_\_\_\_ day of \_\_\_\_\_, 1996, by a vote of \_\_\_\_\_.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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<sup>1</sup> The Board also has stricken "other unknown owners" from the caption of this case because the record does not indicate that such owners have been identified or served. Petitioners are not precluded from serving additional parties in accordance with the Board's rules.