

ILLINOIS POLLUTION CONTROL BOARD  
January 6, 1994

J.M. SWEENEY COMPANY, )  
 )  
Petitioner, )  
 )  
v. ) PCB 93-257  
 ) (Variance)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by M. Nardulli):

On December 17, 1993, J.M. Sweeney Co. (Sweeney), filed a petition for variance with the Board. In its petition, Sweeney states that it "waives its right to request a hearing." The Board believes that a hearing is required pursuant to federal law governing ozone non-attainment areas. (See 40 CFR §§ 51.102 and 51.104.) If Sweeney believes a hearing is not required, it should file an amended petition that addresses that issue. Notwithstanding the possibility that Sweeney will file an amended petition, the Board will proceed with this matter in order to avoid any undue delay. This matter is accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

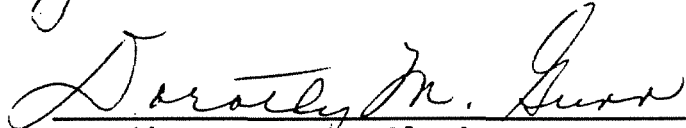
The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, the statutory decision deadline is April 18, 1994; therefore the decision due date is March 31, 1994.

The hearing officer shall consult with the parties and set a hearing date in conformance with the above schedule. If after appropriate consultation with the parties, the parties fail to

provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its recommendation for disposition of the petition within 30 days of filing of the petition.

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 6<sup>th</sup> day of January, 1994, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board