

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1997

SIERRA CLUB and JIM BENSMAN,)	
)	
Petitioners,)	
)	PCB 98-43
v.)	(Pollution Control Facility Siting Appeal)
)	
CITY OF WOOD RIVER and NORTON)	
ENVIRONMENTAL,)	
)	
Respondents.)	

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

This matter is before the Board on a motion to compel filed by Norton Environmental on November 6, 1997. On November 17, 1997, Jim Bensman filed a response to the motion to compel and a motion for sanctions against Norton Environmental. On November 19, 1997 Norton Environmental filed a response to Mr. Bensman's reply regarding the motion to compel. Pursuant to the Board's procedural rules, as the moving party, Norton Environmental does not have the right to reply to Mr. Bensman's response except as permitted by the Board or hearing officer to prevent material prejudice. 35 Ill. Adm. Code 101.241(c). The Board accordingly will not accept Norton Environmental's November 19, 1997 reply.

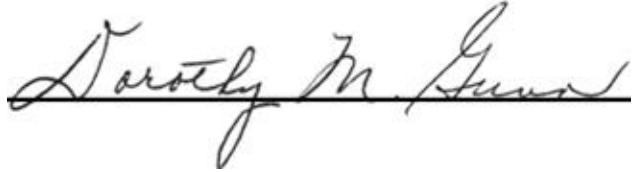
Norton Environmental requests that the Board order Mr. Bensman to timely serve its counsel with any and all documents filed with the Board. According to Norton Environmental's counsel, as of November 6, 1997 it had not yet received Mr. Bensman's brief, which was filed with the Board on November 5, 1997. Mr. Bensman claims that he sent everything to the Board and to Norton Environmental's counsel simultaneously. Mr. Bensman adds that Norton Environmental's counsel did not provide him with a zip code plus four numbers, which he had to obtain via the Internet. Mr. Bensman alleges that Norton Environmental's motion to compel is frivolous and requests that the Board sanction Norton Environmental \$1000.

The Board notes that Mr. Bensman's brief which was filed with the Board on November 5, 1997 contains a proof of service which attests that Norton Environmental counsel was served by first class mail on November 3, 1997. Norton Environmental's counsel appears to have acted hastily in filing its motion to compel, even before the customary four day mail period had elapsed. However, this action does not rise to the level of sanctionable action. 35 Ill. Adm. Code 101.280(b) (1996). Mr. Bensman must file with all the parties involved in this matter, which it appears he has done. Mr. Bensman is reminded however, that he has not been serving the hearing officer with all of his filings with the Board. Mr. Bensman must include the Board's hearing officer with his proof of service.

The Board hereby denies Norton Environmental's motion to compel and denies Mr. Bensman's motion for sanctions.

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 20th day of November 1997, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board