

ILLINOIS POLLUTION CONTROL BOARD
April 28, 1977

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 76-235
)
JOHN MCGUIRE, Director of the)
Illinois Department of Conservation,)
LANGHORNE BOND, Secretary of the)
Illinois Department of Transportation,)
SOUTHWEST EXPRESSWAYS CORPORATION, and)
FRANKLIN H. WEBER,)
)
Respondents.)

ORDER OF THE BOARD (by Mr. Young):

This matter is before the Board on Complainant's Motion for Reconsideration of our Order entered on February 17, 1977, dismissing with prejudice Respondents Franklin H. Weber and Southwest Expressways Corporation from this action. Before ruling on this Motion, the Board believes a brief review of the relevant Motions, Responses and Orders which led to the dismissal is appropriate. This action commenced with the filing of the Complaint on August 23, 1976. On December 16, 1976, the Board ordered briefs on certain issues which the Board thought should be resolved prior to ruling on Respondents' October 8, 1976, Motion to Dismiss. Although these briefs were due on January 17, 1977, the Board granted a continuance until February 17, 1977, for the filing thereof pursuant to Motions filed by the affected parties. In its Motion for Continuance, Complainant gave every indication that it planned to submit a brief on "these important and complex issues." Thereafter Respondents timely filed its brief while the Complainant, more than 10 days after the brief was due, chose to merely file a Motion to Dismiss without prejudice. In view of these circumstances and since the Board had already taken under advisement the issues raised in our Order of December 16, 1976, which by Complainant's own admission were important and complex, the Board believes the hearing process had begun as to these Respondents. This belief necessarily results in the finding that Complainant's Motion was not timely filed and the aforesaid Respondents are entitled to dismissal with prejudice. In view of the foregoing, Complainant's Motion for Reconsideration is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 28th day of April, 1977 by a vote of 5-0.

Christan L. Moffett pk
Christan L. Moffett, Clerk
Illinois Pollution Control Board