

ILLINOIS POLLUTION CONTROL BOARD
December 19, 1996

| | |
|----------------------------------|-------------------------------|
| ENVIRONMENTAL SITE DEVELOPERS,) | |
| INC.,) | |
|) | |
| Complainant,) | PCB 96-180 |
|) | (Citizens Enforcement - Land, |
| v.) | Water) |
|) | |
| WHITE & BREWER TRUCKING, INC.,) | |
|) | |
| Respondent.) | |

ORDER OF THE BOARD (by M. McFawn):

This matter is before the Board on several filings submitted by both complainant Environmental Site Developers, Inc. (ESDI) and respondent White & Brewer Trucking, Inc., (White & Brewer). On December 9, 1996, ESDI submitted the following filings: 1) complainant's status report; 2) complainant's motion to consolidate, and 3) complainant's motion for partial summary judgment. On December 13, 1996, White & Brewer submitted the following filings: 1) respondent's status report, accompanied by a motion for leave to file instanter; 2) respondent's motion for extension of time to file its response to the motion to consolidate; and 3) respondent's motion for extension of time to file its response to the motion for partial summary judgment. As set forth below, we grant respondent's motion for leave to file its status report instanter, accept the status reports submitted by both parties, grant both of respondent's motions for extensions of time to file its responses, and reserve ruling on complainant's motion for partial summary judgment and complainant's motion for consolidation.

First, we address respondent's motion for leave to file its status report instanter. In that motion, White & Brewer asserts that it received complainant's status report on December 10, 1996, and that it would have been inefficient and unwise to file its own individual status report until it had reviewed complainant's status report. Given the fact that complainant's status report was accompanied by a motion for partial summary judgment and a motion to consolidate, we agree, and grant the motion for leave to file instanter.

Second, we accept both complainant's status report and respondent's status report. Both status reports were filed in response to the October 11, 1996 order of the hearing officer, which directed the parties to file a joint status report on or before December 6, 1996. Both status reports adequately reflect the pendency of complainant's motion for partial summary judgment and its motion for consolidation. Additionally, both parties assert in their status reports that further scheduling and case development should be postponed pending resolution of the complainant's motions.

Third, we address respondent's motions for extension of time to respond to petitioner's motion for summary judgment and petitioner's motion for consolidation. In both of respondent's motions, respondent requests a 27-day extension, up to and including January 9, 1997, to file its response. Respondent asserts that the extension is necessary due to scheduling conflicts, and states that complainant's counsel indicated in a December 10, 1996 conference call that it had no objection to the requested extension. We find that both requested extensions are appropriate, and grant respondent an extension of time until January 9, 1997 to reply to both complainant's motion for partial summary judgment and complainant's motion to consolidate.

Finally, because we have granted respondent's motions for extensions of time, complainant's motion for partial summary judgment and motion for consolidation are not ripe, and are not addressed at this time.

IT IS SO ORDERED.

Kathleen M. Hennessey abstained.

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 _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board