

ILLINOIS POLLUTION CONTROL BOARD
June 23, 1992

DALE DETTLAFF and)
DEBORAH DETTLAFF,)
)
Complainants,)
)
v.) PCB 92-26
) (Enforcement)
EDUARDO P. BOADO and)
EPB PARK SERVICES, INC.,)
)
Respondents.)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on complainants Dale Dettlaff and Deborah Dettlaff's June 19, 1992 motion to "reconsider" the hearing officer's denial of the Dettlaffs' motion to reschedule hearing. Hearing on this matter is currently scheduled for June 30, 1992. On June 1, 1992, the Dettlaffs filed a motion to continue the hearing with the hearing officer. The hearing officer denied that motion. The Dettlaffs now ask the Board to overrule the denial of the requested continuance. On June 23, 1992, respondents Eduardo P. Boado and EPB Park Services, Inc. filed an objection to the motion to continue hearing.

In the instant motion, the Dettlaffs note that this is the first requested continuance in this case, and argue that continuance should be granted because: they require time to conduct discovery; a key witness for the Dettlaffs is testifying before the Illinois State Board of Education on June 30 and is therefore not available for the Board's hearing; the Dettlaffs attorney is subject to time constraints detailed in the previous motion to continue and has two additional matters scheduled on June 30; and the parties will not be prejudiced by a short continuance. Therefore, the Dettlaffs ask that the June 30 hearing be continued and that hearing be rescheduled for a date not earlier than August 3, 1992.

Respondents object to the motion, maintaining that the Dettlaffs' failure to conduct discovery is an inappropriate reason to delay the proceedings; that the fact that the Dettlaffs' attorney scheduled additional matters for June 30, even after filing his original motion for extension is his own fault; that the potential witness, whose relevancy is not stated, could either reschedule her other matter or testify later in the hearing day; and that respondents would be prejudiced by the delay, because respondents' attorneys and witnesses have rearranged schedules and arranged for time off of work. Finally, respondents note that the parties were informed of the June 30

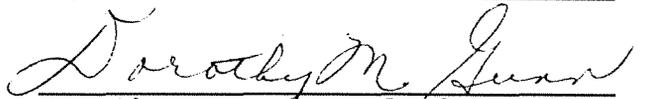
hearing date nearly three months ago.

After reviewing the arguments of the parties, the Board declines to overturn the hearing officer. The motion to continue hearing is denied.

Finally, the Board notes that in the June 1 motion to the hearing officer, the Dettlaffs waived the "120 day statutory decision rule". The Board points out that there is no decision deadline in enforcement cases.

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 23rd day of June, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board