

ILLINOIS POLLUTION CONTROL BOARD  
May 7, 1992

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 90-89  
 ) (Enforcement)  
 ) (Consolidated)  
FRED JOHNSON, JOHNSON & BRIGGS )  
TANK TRUCK SERVICE, a/k/a )  
JOHNSON & BRIGGS TANK TRUCK )  
& HEATER SERVICE, )  
 )  
Respondent. )

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ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 91-123  
 ) (Enforcement)  
HERMAN L. LOEB, ) (Consolidated)  
 )  
Respondent. )

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a May 1, 1992 motion to continue the deadline for hearing in this matter filed on behalf of the Environmental Protection Agency. The motion asks that the Board vacate its April 9, 1992 order which directed that the hearing officer set this matter for hearing by May 11, 1992 and to finish all hearings by July 15, 1992.

The Attorney General's Office (AGO), which represents the Agency in this matter, asserts that the attorney assigned to this case received the case several months after the former Assistant Attorney General handling the matter resigned from his position with the office. The AGO also asserts that the attorney assigned to this matter will be out of the country for most of the month of June and will be unavailable for a hearing at that time. Additionally, the AGO has consulted with the hearing officer, and the hearing officer will not be available for a hearing during the first two weeks of July. Finally, the AGO asserts that the parties are attempting to negotiate this matter in order to reach a settlement rather than hold a hearing.

The Board notes with concern the substantial delay in the proceedings of this matter caused by the AGO's actions. Not only did the AGO fail to assign this case for several months after the

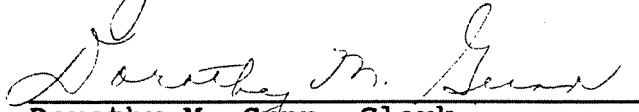
former Assistant Attorney General resigned, but the AGO eventually assigned this case to an attorney who is unavailable at the time set forth in the Board's April 9, 1992 order.

However, it is axiomatic that the law favors settlement. Therefore, the Board will reconsider its order of April 9, 1992, and the Board will vacate the order setting this matter for hearing by May 11, 1992. The Board directs the hearing officer to schedule this matter for hearing by June 15, 1992, and to finish all hearings by August 30, 1992. The hearing officer is also directed to set a post-hearing briefing schedule if required.

Failure to complete hearings according to this schedule may subject this proceeding to dismissal for want of prosecution.

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 7<sup>th</sup> day of May, 1992, by a vote of 7-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board