

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1994

CONCERNED CITIZENS FOR A)
BETTER ENVIRONMENT,)
)
Petitioner,)
)
v.) PCB 94-44
) (Landfill Siting Review)
)
CITY OF HAVANA and SOUTHWEST)
ENERGY CORPORATION,)
)
Respondent.)

ORDER OF THE BOARD (by G. T. Girard):

On April 14, 1994, petitioners filed a "Motion for Continuance" with the Board. On April 18, 1994, Southwest Energy Corporation responded to the motion. Petitioners request a continuance in order to receive testimony from Mr. John Kirby, president of Southwest Energy Corporation, who was unable to testify at the April 6, 1994 hearing due to illness. Respondents oppose a continuance.

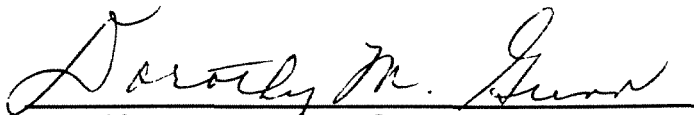
Respondent's properly point out that the hearing officer in this matter denied a motion to continue made at hearing by the petitioner. The hearing officer determined that Mr. Kirby was not an indispensable party in this matter. (Tr. at 261.) Thus, the petitioner is in effect asking the Board to overturn a decision of the hearing officer. The Board is not inclined to do so in this instance.

The Board further, notes that this case is required to be decided within 120 days of filing by statute. (See, 415 ILCS 5/40.1.) The respondent is the only party which may extend the decision deadline in this case. After reviewing the pleadings and the record, the Board finds that the fact that Mr. Kirby did not testify does not prejudice the petitioners. Therefore, the Board denies the motion to continue and affirms the hearing officer's decision denying a continuance.

IT IS SO ORDERED.

Chairman Claire A. Manning abstains.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 2nd day of April, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board