

ILLINOIS POLLUTION CONTROL BOARD  
June 17, 1993

ST. LOUIS AUTO SHREDDING, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 93-45  
 ) (Permit Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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ST. LOUIS AUTO SHREDDING, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 93-46  
 ) (Permit Appeal)  
 ILLINOIS ENVIRONMENTAL ) (Consolidated)  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by R.C. Flemal):

On May 28, 1993 St. Louis Auto Shredding (SLAS) filed a motion for continuance of hearing and a waiver of the decision deadline (to July 1, 1994) in this matter. On June 9, 1993 the hearing officer denied the motion to continue. SLAS filed a motion to review the hearing officer's denial on June 10, 1993.

In his denial document, the hearing officer stated that he had previously cancelled a hearing set for May 3, 1993, and that he believes that the request to continue the second hearing date is not consistent with the need to expeditiously resolve cases before the Board.

SLAS alleges that holding the hearing as scheduled on July 1, 1993 will interfere with SLAS' and the Illinois Environmental Protection Agency's (Agency) efforts to resolve this matter in an expeditious manner. SLAS points to its efforts to prepare a new permit application and states that "[i]nstead of working on the new permit application, SLAS will have to prepare for the hearing and briefing \* \* \* ." (Motion at 2). SLAS states that its best opportunity to receive a permit promptly is to continue to negotiate with the Agency and to file a new permit application in early August, and not to "interrupt the ongoing process with a hearing and briefing on this appeal". (Motion at 4). SLAS reports that the Agency agrees with the motion for continuance.

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The hearing officer is correct that lengthy continuances are not in the interest of expeditiously disposing of cases. The Board also understands the parties' efforts to negotiate to attempt to partially or totally resolve issues prior to hearing and that this effort serves also to conserve hearing resources. The Board observes that SLAS' June 10 filing indicates SLAS' intent at this time to solely pursue a new permit application rather than pursuing the merits of its appeal of the permit denial. As such, it would have been more appropriate for SLAS to file a motion for stay of the proceeding to allow time for negotiations to continue, especially when the negotiations prevent pursuit of the instant appeal.

SLAS further states that it provided ample time for cancellation of hearing by filing the motion for continuance with the hearing officer by May 28, 1993. The Board observes that notices of the July 1, 1993 and May 3, 1993 hearings were published in newspapers of general circulation prior to filing of the motions for continuance. The cancellation of a hearing that has already been noticed in newspapers of general circulation wastes the State's resources and misinforms the public. To allow adequate time for the filing of briefs and Board deliberation before the deadline, the Board requires that hearings be scheduled approximately 120 days prior to the decision deadline. It is the responsibility of the petitioner to proceed with the matter in a timely fashion, yet not to cause cancellation of hearings after notice has been published without substantial justification.

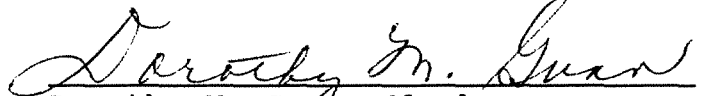
The Board reluctantly grants SLAS' motion for continuance. To ensure that this matter proceeds in as expeditious manner as possible, and as no substantive action has taken place in this circumstance, the Board directs the parties to submit status reports. The parties are to submit status reports to the Board and hearing officer to be received by August 15, 1993.

Future failure to provide the Board with an adequate waiver or cancellation of noticed hearings may subject this matter to dismissal for want of prosecution. The hearing officer may proceed to continue the hearing to a date consistent with this order.

IT IS SO ORDERED.

Board Member B. Forcade abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 17<sup>th</sup> day of June, 1993, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board