

ILLINOIS POLLUTION CONTROL BOARD
August 22, 1991

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

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

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

This case is before the Board on two motions filed by complainant the Illinois Environmental Protection Agency (Agency) on August 14, 1991. Respondents have not filed a response.

The Agency first asks that this case be consolidated with the pending case of Illinois Environmental Protection Agency v. Loeb, PCB 91-123. The Agency notes that Mr. Loeb was originally a respondent in the instant proceeding, and maintains that the issues

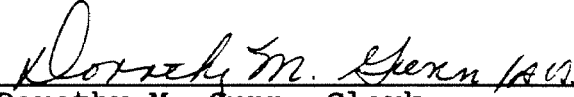
¹ The Board notes that although respondents' time to respond to these motions has not yet expired, one of the motions involves a requested continuance of the August 28 and 29, 1991 hearings in this case. Therefore, the Board finds that material prejudice would result if we were to delay a decision on the motions until the expiration of the response period. (See 35 Ill. Adm. Code 101.241(b).)

in both cases arise from a common nucleus of operative facts, and that a complete determination of either case cannot be had without the presence of all parties. Thus, the Agency asks that the two cases be consolidated. The Board grants the motion to consolidate. Section 103.141 of the Board's procedural rules provides that the Board may consolidate enforcement proceedings in the interests of "convenient, expeditious, and complete determination of claims." The Board finds that this case and PCB 91-123 would be more conveniently, expeditiously, and completely resolved if the two cases are consolidated.

Second, the Agency asks that the Board continue hearings presently scheduled in PCB 90-89 for August 28 and 29, 1991. The Agency states that discovery in PCB 90-89 is not yet complete, in part as a result of a stay issued in this case in 1990. The Agency also notes that it has been unable to take the deposition of an out-of-state witness, and that it wishes to take Mr. Loeb's deposition as well. The Agency states that counsel for the other parties in PCB 90-89 and PCB 91-123 have indicated that they have no objection to this motion for continuance. Because this case has been consolidated today, and because the Board believes that the Agency should have a reasonable opportunity to complete its discovery, the motion to continue hearings is granted.

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 22nd day of August, 1991, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board