

ILLINOIS POLLUTION CONTROL BOARD
March 2, 1989

IN THE MATTER OF:)
)
THE PETITION OF THE CITY OF)
HAVANA FOR A SITE-SPECIFIC RULE) R88-25
CHANGE TO THE COMBINED SEWER)
OVERFLOW REGULATIONS)

ORDER OF THE BOARD (by M. Nardulli):

Section 27(a) of the Environmental Protection Act ("Act") has recently been amended by P.A. 85-1048 to give the Board exclusive authority in deciding whether an EcIS should be performed for a rulemaking. Since that change became effective January 1, 1989, Resolution 89-1 sets forth the procedure that the Board will utilize for rulemakings which were filed prior to 1989 and for which an EcIS determination had not been made by the Department of Energy and Natural Resources ("DENR"). In part, the amendments to the Act provides:

[T]he Board shall determine whether an economic impact study should be conducted. The Board shall reach its decision based on its assessment of the potential economic consideration of the economic impact absent such a study, the extent, if any, to which the Board is free under the statute authorizing the rule to modify the substance of the rule based upon the conclusions of such a study, and any other considerations the Board deems appropriate. The Board may, in addition, identify specific issues to be addressed in the study.

Section 27(a) of the Act. (as amended by P.A. 85-1048)

It is upon these criteria that the Board must make its EcIS determination in this matter.


On September 1, 1988, the City of Havana ("Havana") filed a petition for site-specific relief from 35 Ill. Adm. Code 306.305(a) and 306.306(c) Combined Sewer Overflow Regulations. On December 27, 1988, the Department of Energy and Natural Resources filed a negative declaration for a formal economic impact study ("EcIS") in this matter. The DENR stated that a negative declaration was appropriate because "the net economic

impact of the regulation is favorable and the costs of compliance are small or are borne entirely by the proponent of the regulation." No formal letter of concurrence with this decision was filed in this matter by the Economic and Technical Advisory Committee ("ETAC"). However, it is within the Board's knowledge that ETAC did concur with the negative declaration subsequent to the January 1, 1989 date on which P.A. 85-1048 went into effect. As a consequence of ETAC not filing a concurrence with the negative declaration, the Board included this matter in Resolution 89-1 and has prepared this order. Neither the Agency nor Havana made comment on the appropriateness of an EcIS.

After consideration of DENR's negative declaration and the proposal for rulemaking, the Board presently believes that the presentation of economic information at hearing should be sufficient for its consideration of the economic impact of the proposed rule. The Board therefore finds that the preparation of an EcIS need not be conducted in this matter at this time.

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 2nd day of March, 1989, by a vote of 6-0.



Dorothy M. Gunn, Clerk,
Illinois Pollution Control Board