

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2011

CITY OF JOLIET,)
)
Petitioner,)
)
v.) PCB 11-08
) (Permit Appeal - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On August 24, 2010, the City of Joliet (Joliet) timely filed a petition asking the Board to review a July 30, 2010 determination of the Illinois Environmental Protection Agency (IEPA). In the determination, IEPA denied Joliet's request to modify a March 2, 2010 supplemental permit concerning radium limits for land-applying sewage sludge from Joliet's three wastewater treatment plants. In an order of September 2, 2010, the Board accepted Joliet's petition for hearing. Since then, the hearing officer has conducted several status conferences with the parties and Joliet has waived the Board's statutory decision deadline to November 21, 2011. The case has not been scheduled for hearing and no motions seeking final disposition of this permit appeal on the merits have been filed. On June 24, 2011, Joliet filed an agreed motion to dismiss the appeal without prejudice (Mot.), which the Board rules upon today.

In the agreed motion, Joliet seeks dismissal of the permit appeal "without prejudice to potentially again raise issues with respect to limitations on the City of Joliet's ability to land apply sewage sludges containing radium." Mot. at 1. During the pendency of this case, Joliet explains, two events have impacted the "need to prosecute this appeal." *Id.* First, the Illinois Emergency Management Agency (IEMA) has "completed the adoption of regulations applicable to land application of sewage sludges containing radium." *Id.* Second, because the March 2, 2010 supplemental permit expires on September 30, 2011, Joliet has filed a renewal application with IEPA, but IEPA "informed Joliet that it cannot process the renewal of this Permit because of the pendency of this appeal." *Id.* Joliet maintains that the requested dismissal will enable IEPA to process the renewal application "taking into consideration the IEMA regulations and issue a final permit to Joliet," while allowing Joliet to "challenge the appropriateness of limitations that it might find to be objectionable without the worry that it is barred from doing so by reason of the dismissal of this matter." *Id.* at 2. Joliet represents that IEPA does not object to the motion. *Id.*

The Board grants the agreed motion for dismissal of this permit appeal without prejudicing Joliet's ability to contest limits on the land application of sewage sludge that may be imposed through any future permit determination of IEPA. As the statutory timeframe within which Joliet could appeal IEPA's July 30, 2010 denial has passed, dismissal of the instant appeal

is necessarily with prejudice as to Joliet's ability to contest the July 30, 2010 determination. The Board grants the agreed motion, so dismisses this appeal, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 7, 2011, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board