ILLINOIS POLLUTION CONTROL BOARD
January 24, 1990

THOMAS S. FREDETTE,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 89-61
	)	(Enforcement)
VILLAGE OF BEECHER,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J. C. Marlin):

MR. THOMAS S. FREDETTE APPEARED PRO SE AS COMPLAINANT.

MR. STEVEN TONGREN OF CLINTON, TONGREN & KNUTH APPEARED ON BEHALF OF RESPONDENT.

This matter is before the Board upon an eight count complaint against the Village of Beecher ("Beecher") filed by Thomas S. Fredette ("Fredette") on April 5, 1989. The Complaint alleges that Respondent is in violation of several of the Board's regulations regarding water and air pollution. Upon a grant of default by the Board on Fredette's claims, hearing was held July 27 in the Village Hall Board Room, Beecher, Illinois on the matter of the appropriate relief to be granted. Post-hearing briefs were filed by the Complainant and Respondent on October 15 and November 7, 1990 respectively.

BACKGROUND

The Village of Beecher, Will County, Illinois operates a wastewater treatment plant which services residences and businesses within the village. The treatment plant is located on Pasadena Avenue. In the operation of the plant the Village discharges wastewater into the west branch of Trim Creek, a tributary to Pike Creek and then to the Kankakee River. (Complaint, p.2)

The Village is authorized to discharge wastewater from the treatment plant to the west branch of Trim Creek pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. IL 0049522 issued by the Illinois Environmental Protection Agency ("Agency") on July 5, 1985 which expired August 1, 1990. The permit sets, in part, effluent discharge limitations for daily flow, five-day biological oxygen demand (BOD_5), total suspended solids, fecal coliform, pH and ammonia nitrogen. (Complaint, p.3)

PROCEDURAL HISTORY

After the filing of Complainant's complaint, Beecher moved to dismiss it April 27, 1989. The Board agreed to hear the motion to dismiss at its Board meeting that day. Beecher's motion alleged that the claims that Fredette had made against it were also the subject of an Enforcement Notice Letter dated May 6, 1988 it had received from the Illinois Environmental Protection Agency and were the subject of negotiations with the Illinois Attorney General's Office. Admitting that the complaint was not frivolous, the attorney for respondent urged the Board that the complaint was nonetheless "duplicitous". The Board, in its Order of April 27, 1989, found that the complaint was not "duplicitous" at that time.

On January 16, 1990 the Petitioner filed his Motion for Judgement by Default due to Respondent's failure to comply with discovery deadlines imposed by the Hearing Officer. The Board denied that motion by reason of it failing to include matters not of record in verified form and advised the Complainant and the Hearing Officer of the correct procedure to follow for such filings. On February 26, 1990, the Complainant filed his Second Motion for Judgement by Default which cured these deficiencies. The Hearing Officer followed with his Order Regarding Motion for Judgement by Default filed March 1, 1990.

The Petitioner's motion stated that Interrogatories and a Request for Production of Documents were served upon Beecher more than four months earlier on August 17, 1989. When no response was received the Complainant filed a Motion to Compel Compliance with the Hearing Officer requesting that an Order be entered compelling responses to the discovery requests. The Hearing Officer entered an Order on December 13, 1989 giving Respondent until December 26, 1989 to comply with the discovery requests. When again no responses were received the Complainant filed his first Motion for Judgement by Default which was subsequently denied by the Board.

The Hearing Officer gave the Respondent another opportunity to cure the failure to file discovery. In an Order dated February 27, 1990 the Hearing Officer demanded that Respondent show cause why his Order of December 13, 1989 was ignored; re-ordered compliance with discovery requests by March 19, 1990; and, set forth his intention to issue findings regarding Respondent's failures to comply should Respondent fail to answer by March 19, 1990. When Respondent again failed to answer, the Hearing Officer filed his findings stating that he had received no communication from Respondent nor had the Complainant received any communication or evidence of compliance. In its Order dated March 22, 1990, the Board therefore granted the Complainant judgement by default and asked the Hearing Officer to schedule a

hearing to take evidence on the relief to be granted the Complainant.

On March 28, 1990 the Village of Beecher filed a Motion to Vacate Default Order and For Additional Time to File Discovery Answers. The Board denied the motion stating that the Respondents purported reasons for failing to comply with the Hearing Officer Orders fell "far short of the mark". Undeterred, the Village followed with a Motion to Dismiss Complaint or for Alternative Relief on July 27, 1990. The motion raised again the grounds that the matter before the Board was duplicative of an enforcement proceeding filed against it by the People of the State of Illinois by the Attorney General in Circuit Court. The motion attached in support a copy of the Complaint and an executed Consent Decree entered into by the Village, the Illinois Environmental Protection Agency, and the Illinois Attorney General's Office, which were filed together in the Circuit Court on July 16, 1990. The Board, however, found upon review of the exhibits and Complainant's complaint that the claims, as alleged, were not so substantially similar as to warrant dismissal of Complainant's action. It therefore, denied Respondent's motion in an Order dated August 9, 1990.

A hearing occurred July 27, 1990 in the Village Hall Board Room in Beecher, Illinois for the purpose of accepting evidence concerning the remedy to be granted Mr. Fredette. The post-hearing brief of respondent was filed on October 15, 1990. Complainant filed his brief on November 7, 1990.

DISCUSSION

Allegations by Fredette

The Complaint filed by Thomas S. Fredette contained eight counts. Count I, entitled "Water Pollution" complained that the Village's wastewater treatment plant caused or allowed discharges which caused water pollution from August 1985 through September 1988 inclusive, so as to violate 35 Ill. Adm. Code 304.141 and 309.102(a) and Sections 12(a) and Sections 12(a) and (f) of the Act. Section 304.141 of the Board's regulations contain a prohibition against exceeding NPDES permit limitations. Section 309.102(a) prohibits discharges from point sources without an NPDES permit.

Count II alleges that Respondent caused or allowed discharges from its treatment plant which exceeded the daily maximum concentration of fecal coliform as specified in its NPDES permit. Again, the violations are stated to have taken place from August 1985 through September 1988. Count III alleges that from November 1985 to December 1987, the Village caused or allowed the flow of wastewater which exceeded the design average flow of 0.3 million gallons per day as specified in the Village's

NPDES permit. Count IV concerned violations of total suspended solids limitations from August 1985 through July 1988. Count V averred that during this same period monthly average concentration, five day biological oxygen demand (BOD_5) for the Village's NPDES permit were violated.

Count VI alleged that from August 1985 through September 1988 the Village submitted reports, required to be "signed by a principal executive officer", which were signed by someone else. Count VII states that for these same dates, Respondent operated the treatment plant in a manner not constituting best management practices and in a manner not providing optimum operation and maintenance. Finally, Count VIII, entitled "Air Pollution", alleges that from August 1985 through September 1988, the Village "operated the treatment plant in a manner so as to cause or tend to cause air pollution in Illinois" in violation of Section 9(a) of the Act. Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009(a). For each and every violation, and for each day of violation, Fredette requests monetary penalties, costs and attorney fees, and an order to compel operation of the treatment plant according to applicable laws and regulations.

Will County Complaint

It is against this background, that the Complaint filed by the People of the State of Illinois, and the provisions of the subsequent Consent Decree must be examined in order to derive what actions remain unremedied. The Complaint for Injunction and Other Relief filed in Will County Chancery Court, No. 50 CH 10301, contains five counts. Count I alleges that discharges from the Village's waste water treatment plant failed to meet the final effluent limitations for BOD_5, total suspended solids and fecal coliform for the months of July - September and December 1988; and January, April - June, and August - November 1989. Count II complained of offensive discharges from the plant in violation of 35 Ill. Adm. Code 304.106 in that odor and turbidity standards were violated. Count III alleged that the Village violated Section 302.212 and 302.203 of the Board's regulations, which concern general use water quality standards relating to ammonia nitrogen and unnatural sludge. Count IV averred that the Village failed to perform according to the compliance schedule for final effluent limits for BOD_5, TSS and fecal coliform, contained in its NPDES permit. Count VI stated that the Village violated a special condition of an Agency-issued permit relating to sludge disposal.

Like Fredette, the People requested monetary penalties for violation of the Act; expert witness fees and costs; and temporary and permanent injunctive relief.

Vill County Consent Decree

The Consent Decree entered into between the People and the Village of Beecher set forth the existing noncompliance with State regulations and "National Municipal Policy." The decree outlined that the Village had violated its NPDES permit and, more specifically, 35 Ill. Adm. Code 302.212, 302.203, 304.106, 304.121, 304.141(a) and 309.102(a) and Sections 12(a), (b) and (f) of the Act by discharging effluents containing in excess of the interim effluent limits. (Section C. of the Consent Decree) The decree also covered violations of the Municipal Compliance Plan, 35 Ill. Adm. Code 309.102(a) and Section 12(f) of the Act. The Village agreed that its discharges failed to meet compliance plan final effluent limitations from June - November 1987 for both TSS and Fecal Coliform; during December 1987 and January 1988 for Fecal Coliform; during March - June 1988 for TSS and Fecal Coliform and for May and June 1988 for TSS and Fecal Coliform and for May and June 1988 for BOD_5. The decree also stated that the discharges TSS, BOD_5 and Fecal Coliform exceeded limits for April - November 1989 and July 1988. The Village also admitted that it violated Fecal Coliform limits for August 1988 and for Fecal Coliform and TSS for September 1988.

For these violations the Village agreed to a penalty of $6,600 payable to the Environmental Protection Trust Fund. The Village also agreed to construct improvements to its WWTP to achieve compliance with applicable laws and regulations. The improvements, already substantially completed, were an additional 4.5 million gallon capacity aerated lagoon with 50,000 cubic foot rock filter and chlorination cell and a lift station with two submersible pumps; conversion of the existing lagoon to an aeration pond; and piping required by the Agency permit. The Village is to also use "best efforts" to control obvious odors from the planned lagoon. The Village also agreed to contingent penalties should it not meet final effluent limitations after June 15, 1990 and agreed to final effluent limitations of 30 mg/l of BOD_5 as a monthly average, 37 mg/l of TSS as a monthly average and 400/100 ml fecal coliform as a daily maximum. The Village was ordered to abate, cease and desist all violations of the Act and regulations thereunder.

ARGUMENTS OF THE PARTIES

At hearing, Mr. Fredette testified as to the nature of violations claimed and summarized his request for relief. In support of his testimony he introduced six exhibits: a document entitled "Notice of Violation/Intent to File Lawsuit dated March 15, 1988 (Pet. Exh. 1). The Village's operating permit and two letters from IEPA referring to the permit (Pet. Exh. 2), a discovery request dated July 12, 1990 with a letter to Mr.

Tongren, the Village attorney (Pet. Exh. 3) with return receipt (Pet. Exh. 5), a set of discharge monitoring reports from May 1985 through May 1990 (Pet. Exh. 4) and a written document containing a summary of the relief requested by Mr. Fredette. (Pet. Exh. 6). The respondent introduced a copy of the Consent Decree and Will County complaint (Resp. Exh. 1,2) as well as an effluent sample report dated July 5, 1990. (Resp. Exh. 3)

A number of objections were made by the parties at hearing. To clarify matters these will be decided prior to our discussion of the case. Fredette objected to the documents, which he characterized as discovery, attached to the July 27, 1990 Motion to Dismiss Complaint filed by the Village. Fredette observed that the motion was filed the day of hearing. Any discovery attached to the motion was untimely, he argued, and should not be considered a proper response to his discovery requests. The Board notes that, indeed a number of documents were attached to the motion. However, these were properly attached as exhibits to the motion, did not purport to be discovery responses and were not considered by the Board as such.

The Village objected to the discharge monitoring reports contained in Petitioner's Exhibit No. 4 which were not part of Fredette's original complaint or were not claimed there as a date of violation. These concerned reports post September 1988. Mr. Fredette argued that Board rules, specifically 35 Ill. Adm. Code Section 103.210(b) allowed him to amend his Complaint at hearing Fredette claimed that he was introducing them as evidence of "motive" or "continuing violations". (R. 21). The Hearing Officer admitted the packet and gave leave to petitioner to amend his complaint and for the Village to file their response. The Village declined to exercise any right to a continuance by reason of surprise (R. 24-25). Fredette failed, however, to file an amendment post-hearing. We believe that none was necessary, the evidence merely being used to show continuing course of conduct. The Village could not have been unaware of their existence, similar reports having been obtained from the Village by Fredette under the Freedom of Information Act. (R. 23). Therefore, the Board rules that such evidence was admissible.

The Village also objected to the admission of Petitioner's Exhibit No. 6, a summary of the violations charged, damage calculations and a request for relief. The damage calculations purported to show that the Village was potentially liable for over $16 million in penalties. The request for relief only asked that a $7,000 penalty be imposed, among other items of relief. The Village argued that the document was really a late attempt to amend the complaint and was unsupported by evidence. The Hearing Officer gave Mr. Fredette the Opportunity to support his claims and damage calculations with testimony, which Mr. Fredette did (R. 37-40). However, the Village continued to object to their admission as an exhibit, despite the fact that, as a totality,

the admission of the exhibit seemed to limit Fredette's request for relief.

Again, Mr. Fredette did not amend his Complaint post-hearing. Therefore, the Board will decide whether Petitioner's Exhibit No. 6 was properly admitted by the Hearing Officer as an exhibit. Under Board rules the Hearing Officer may receive "evidence which is material, relevant and would be relied upon by reasonably prudent persons in the conduct of serious affairs . . ." 35 Ill. Adm. Code 103.204 The document sets forth a summary of the alleged violations, petitioner's count of the days of violations, damage calculations including expenses, and a request for relief. We believe the summaries and calculations to be relevant to Mr. Fredette's claim for relief. Therefore the Board admits these documents.

Mr. Fredette's new and altered claim for relief presents a separate problem however. We believe it would have been preferable that this new claim for relief have taken the form of a written amendment to the pleadings. However, our review of the record reveals that clearly the petitioner is no longer asking for the full range of penalties which could have been assessed against the Village but has reduced it to a monetary penalty of $7,000 plus a series of additional items of relief. The oral amendment, we believe, is valid and will be treated as Complainant's amended request for relief.

The Village called Mr. Barber, the Village Administrator, to testify on its behalf. Mr. Fredette objected to Mr. Barber being called as a witness. Fredette argued that he had filed a discovery request with the Village asking for a list of their witnesses to be used at hearing and any documents to be relied upon. The document request was mailed July 12, 1990. The hearing date was July 27, 1990. Counsel for the Village states that he mailed his response two or three days earlier and would be willing to file proof of service with the Board. Based on the closeness of the filing and hearing, the Hearing Officer overruled the objection. Our examination of the record reveals that, incredibly, the discovery response filed with proof of service on July 24, 1990 did not reach the Board until August 3, 1990 some 11 days later. We cannot determine, from the record, that mailing on the 24th did not occur as alleged. Therefore, Mr. Barber's testimony will be admitted.

Mr. Fredette also objected to the relevance of Mr. Barber's testimony. Mr. Barber testified that certain improvements were made to the Village's sewer plant. The testimony was apparently introduced to rebut the petitioner's "motive" or continuing conduct evidence. We cannot say that the testimony was irrelevant as to this point.

Mr. Barber testified that as part of the municipal compliance plan "as issued by the State of Illinois", the

Village completed $688,000 worth of capital improvements to the facility. (R.68) Construction did not take place until late 1989 and were completed June 15, 1990. (R.69) A new operator was hired for the sewer facility July 1, 1990.

Construction was delayed in part, Mr. Barber testified, due to a pending lawsuit involving construction of an aeration lagoon. The lagoon was placed into operation on December 15, 1989. Village engineers have assured Mr. Barber that violations of the NPDES permit will cease as of the start-up date of the facility. (R.78)

Mr. Fredette also objected to introduction of evidence that he was a party in a suit to enjoin construction of the city's aeration lagoon. This evidence is hardly relevant to the matter. Because this circumstance was already in the pleadings of record, we find that its admission was harmless.*

On October 15, 1990 the Village of Beecher filed its post-hearing brief. The Complainant responded with his brief on November 7, 1990. The Village's arguments echo those made at hearing. The Village contends that "it is important to compare the Attorney General Complaint or Consent Decree to the Complaint herein for any similarities in alleged violations." (Br. p.2) The brief then submits that the Board's review will reveal that the present suit and Consent Decree will be found "substantially similar." With this explained, the Village argues that the portions which are similar should be dismissed, citing Northern Illinois Anglers' Association v. The City of Kankakee, PCB 88-183.

To the extent that the Village asks that the Board dismiss Fredette's Complaint, the Board declines to do so. The Board has examined the issue regarding "duplicitous" and frivolous filing no less than twice. As pointed out by Fredette and by previous Board Orders, what the Village misses, and continues to miss, is that while the allegations are similar they are by no means identical. The dates of the alleged violations vary as do the violations themselves, as we think our lengthy description of the two documents shows. Under these circumstances the Board will not grant the "motion" to dismiss contained in respondent's brief. To the extent, however, that the charges are similar, the Board will take these matters into consideration when it fashions the appropriate relief to be granted.

The Village objects to any requests by Fredette for reimbursement for attorneys fees and expenses. Fredette is not

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*Several other objections of minor importance were also made by the parties of hearing. For these we decline to both discuss or revise the rulings of the Hearing Officer, which shall stand.

an attorney entitled to these fees, the Village argues. In his response brief Fredette cites decisions which have granted fees to non-attorneys. The Board's lack of authority to grant attorney's fees absent specific statutory authorization is clear, however. Therefore, the Board denies the request for such relief.

RELIEF TO BE GRANTED

Because the Board entered default against the Village in favor of Complainant Fredette, judgment was entered on each and every count of Fredette's Complaint in his favor. As we have stated previously, our examination of Fredette's Complaint and the Consent Decree shows that the violations complained of are not identical. The default judgment entered against the Village by the Board contain far more instances of violation than either alleged in the Will County Complaint or incorporated into the Consent Decree. The Board decides today that under the evidence as presented it is appropriate to order the Village to cease and desist from future violations of the Act and Board regulations.

Prior to addressing whether a penalty is appropriate in this case the Board first turns to an additional measure of relief requested by Complainant: a performance bond ("escrow account") in the amount of $500,000 conditioned upon the operation of the Village's WWTP in accordance with the Act and Board regulations. The Complainant also asks that the Village be charged $1,000 per day for future violations from the fund.

The Board declines to require the Village to establish an escrow account as envisioned by Complainant. Future violations, of course, would have to be adjudicated before the Board could order the payment of a penalty. The Board could not order deductions from the fund, based on a reported or alleged violations. Moreover, this money would have to be set aside by the Village prior to the establishment that a violation had occurred.

In addition a performance bond is normally associated with a clearly defined set of conditions. The bond acts as a means of assurance that these conditions will be complied with. Here, the Village has already made substantial improvement to their wastewater treatment system. The Village has committed to detailed improvements and to compliance with the Act and Board regulations. We see little more assurance in a performance bond than the Village has already given. Future violations can be brought to the Board's attention through the enforcement process. Therefore, the Board declines to impose a performance bond as a part of the relief.

Section 33(c) Factors

Section 33(c) provide the minimum factors which must be considered in reaching a penalty assessment. As we stated in our Allen Barry decision, these will be considered by the Board in each penalty determination to the extent relevant evidence exists. These factors affect the calculation of the penalty by increasing or decreasing the penalty amount depending on whether the statutory factor, when evaluated by the Board, weighs in favor of a larger or smaller penalty within the range of penalties derived pursuant to the first part of the penalty evaluation. IEPA v. Allen Barry, PCB 88-71 (May 10, 1990)

The statutory penalty criteria are:

* All the facts and circumstances. Section 33(c)
* Character and degree of injury or interference. Section 33(c)(1)
* Social and economic value. 33(c)(2)
* Suitability/unsuitability of pollution source to its locale. Section 33(c)(3)
* Technical practicability and economic reasonableness of pollution abatement. Section 33(c)(5)
* Economic benefits of non-compliance. Section 33(c)(5)
* Any subsequent compliance. Section 33(c)(6)

Regarding Section 33(c)(1), the Village of Beecher discharged effluents in excess of its NPDES permit limitations for approximately 3 years. These violations had a measurable negative impact upon the receiving waters and therefore, support imposition of a penalty.

Operation of the Village's WWTP has a social and economic value. Section 33(c)(2) However, operation of the WWTP in a manner which violates the Village's NPDES permit diminishes this utility. Municipalities which comply with the effluent limitations contained in their NPDES permits do contribute, socially and economically, to the community. Assessment of a penalty is not expected to diminish the social and economic value of the WWTP to the community. Unlike a private employer, the WWTP cannot terminate operation to either avoid payment or because the payment threatens profitable operation. Therefore, the Board finds that its consideration of this factor does not support reduction of the potential penalty.

The Board finds that suitability/unsuitability of locale is not a consideration in this case. (Section 33(c)(3))

The Board also finds that the technical practicability and economic reasonableness of pollution control is not at issue here. The technology associated with the control of the named effluents is well established. The Village has not demonstrated that these controls are economically infeasible. Rather, the Village has consented to make the changes to bring about compliance. The Board finds therefore, that our consideration of Section 33(c)(4) supports imposition of a penalty.

The Village derived a certain economic benefit by its delayed compliance with the conditions contained in its NPDES permit. (Section 33(c)(5)) For as long as the Village failed to take those steps necessary to bring its operation into compliance, the time value of the money necessary to undertake those steps was saved. Testimony from the Village placed eventual construction costs at $688,000.00. The time value of avoiding this expense for 3 years of non-compliance is not expressly revealed by the record. However, even at the statutory interest rate of 9% per annum, considerable savings are amassed. The Board finds that our consideration of this factor also indicates a penalty should be assessed.

The issue of subsequent compliance is squarely before the Board. (Section 33(c)(6)) The Village has entered into a consent agreement which mandates future compliance, sets penalties if the Village does not comply with express effluent limitations, and incorporates a construction schedule for improvements (now completed) to the Village WWTP. The Board believes that consideration of this factor supports a reduction in any potential penalty.

Finally, the Board will consider the fact that the Village of Beecher has paid a penalty of $6,600 for violations of the NPDES permit issued the Village which were outlined in the Will County Consent Decree. These violations occurred within the same general time period for which Fredette has been granted judgment on the counts of his Complaint before the Board. The time periods are not as extensive as those on which we have granted judgment, however. The Board finds, therefore, that our consideration of this factor warrants a set-off in our penalty assessment for the $6,600 already paid by the Village of Beecher.

Integrating the various elements which suggest either the imposition or non-imposition of penalty, the Board concludes that, separate and distinct from recouping the economic benefit on non-compliance, and not taking into account the set-off which the Village is entitled to by reason of the penalty assessed it under the consent decree, a penalty in the amount of $1,000 each for violations of Sections 9(a), 12(a) and 12(f) of the Act would

aid in the enforcement of the Act. The Village also should incur a penalty of $14,000 for its violation of fecal coliform, excess flow, total suspended solids and biological oxygen demand which exceeded permitted levels. The total of the two measures is $17,000.

Complainant's evidence showed that if the full range of penalties were assessed against the Village for each day of violation for which judgment was entered, the total penalty would amount to millions of dollars. The Complainant stated at hearing that the total penalty he was requesting was $7,000, however.The Board does not consider itself bound by the complainant's amended request for monetary penalties in the amount of $7,000 just as it was not bound by the original request that millions of dollars of penalties be imposed. The Board chooses not to impose a penalty for the violations concerning reporting requirement or best management practices. Nor does the Board choose to impose, in this case, penalties for each continuing day of violation of the NPDES permit limitations. Accounting for all of the above, and applying the indicated set-off, a penalty of $10,400 is indicated.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Respondent, Village of Beecher, has violated Sections 9(a), 12(a) and 12(f) of the Illinois Environmental Protection Act and 35 Ill. Adm. Code 304.141 and 309.102(a).

2. Within 30 days of the date of this Order the Respondent shall, by certified check or money order payable to the State of Illinois, pay the penalty of $10,400, which is to be sent to:

   Illinois Environmental Protection Agency
   Fiscal Services Division
   2200 Churchill Road
   Springfield, Illinois 62708

   The Village of Beecher shall also place its Federal Employer Identification Number upon the certified check or money order.

3. The Village of Beecher is hereby ordered to cease and desist from all violations of the Illinois Environmental Protection Act and from Board regulations.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court establish filing requirements.

IT IS SO ORDERED.

J. D. Dumelle, B.Forcade and J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 24th day of January, 1991 by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board