

ILLINOIS POLLUTION CONTROL BOARD

May 18, 1984

CITY OF ST CHARLES,)
)
 Petitioner,)
)
 v.) PCB 83-69
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)


ORDER OF THE BOARD (by J. Anderson):

On May 4, 1984 the parties filed a joint "stipulation and order to dismiss without prejudice". The Board notes that this action is an NPDES permit appeal, so that the action cannot be dismissed "without prejudice". Section 40(a) of the Environmental Protection Act requires that permit appeals be brought within 35 days of the date of the Agency's permit decision. Once a permit appeal is dismissed, any refiling would be barred by the statutory filing deadline.

The Board will construe the May 4 filing as a motion to withdraw the petition, with which the Agency concurs. The motion is granted, and the appeal is dismissed. (The City is reminded that it may move for reconsideration of this Order within 14 day pursuant to 35 Ill. Adm. Code 103.240 in the event that this "dismissal with prejudice" is not acceptable to it.)

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 18th day of May, 1984 by a vote of 6-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board