

ILLINOIS POLLUTION CONTROL BOARD  
July 19, 1984

VILLAGE OF SAUGET, )  
Petitioner, )  
v. ) PCB 79-87  
ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Respondent. )

MR. JEFFREY C. FORT, MARTIN CRAIG CHESTER & SONNERSCHEIN,  
APPEARED FOR PETITIONER ALONG WITH MR. HAROLD G. BAKER, JR.,  
BAKER & SCRIVNER;

MR. GARY P. KING, ATTORNEY-AT-LAW, APPEARED FOR RESPONDENT;

OPINION AND ORDER OF THE BOARD (by B. Forcade):

On April 17, 1979, the Village of Sauget ("Sauget") filed a petition to review the NPDES permit issued for its wastewater treatment plant. On May 14, 1979, the Illinois Environmental Protection Agency ("Agency") filed the certification and record on appeal. On June 20, 1979, the Monsanto Company petitioned to intervene. After several Board Orders to promote rapid disposition of this case, a hearing was finally held January 31, 1984. Final Briefs were filed by Sauget on March 19, 1984, and by the Agency on April 19, 1984.

Sauget is a municipality organized and existing under the provisions of the Illinois Municipal Code of 1961, as amended (Ill. Rev. Stat. 1975, ch. 24, §1-1-1 et. seq.). It is located on the Mississippi River in St. Clair County, Illinois between the City of East St. Louis and the Village of Cahokia. Sauget owns and, under contract, causes to be operated a physical-chemical waste treatment plant for treatment of its effluent which discharges into the Mississippi River. The plant provides physical and chemical treatment for removal of metals and insoluble organics. Unit operations include solids removal, neutralization, flocculation and clarification, and oil skimming (Pet., p. 1-2).

Sauget applied for and on March 19, 1979, was issued an NPDES permit, numbered IL0021407, which is the subject of this permit appeal. Sauget objected to 17 terms, conditions, monitoring requirements or effluent limitations contained in that permit (Pet., pp. 3-18). The disposition of these 17 issues would involve complicated matters of fact and law. The parties to this proceeding have never addressed the proper resolution of the 17 issues.

At hearing, the parties submitted a Petition for Acceptance of Stipulation and Settlement (Joint Exhibit #1). At hearing, there was no discussion of the merits of the case nor what disposition the Board should make with this matter. The only

matter discussed in the six pages of transcript is that Sauget and the Agency had disagreements in the past which are now resolved (R. 3,6. See also Exhibit No. 1, p. 2, and ¶ 4, p. 4). Exhibit No. 1 then proceeds to identify what terms and conditions will or will not be included in any future NPDES permits issued to Sauget (Ex.#1, p. 4, et. seq.). Monsanto, it appears, is in agreement (R. 5). This Board cannot accept, reject or evaluate an agreement on a permit that has not yet been issued. The effect of that document, as a contract, is not a proper matter for Board resolution.

In final briefs, the parties disagreed on what action the Board should take. Sauget urged continuation of this case on the Board's docket or dismissal striking the conditions Sauget found objectionable. The Agency urged total dismissal with leave to re-file. Each party objected to the other's suggestions.

More than 5 years ago, Sauget filed this permit appeal asking the Board to resolve 17 disputes it had with the Agency involving issues such as what are the appropriate limitations on toxic chemicals and whether statutory or regulatory authority exists for certain limitations. Neither party has ever provided legal or factual arguments to this Board regarding the 17 issues involved in the 1979 permit. Now the Board is being asked to specifically not decide those issues as the parties are in agreement. The sole function of the Board in a permit appeal is to resolve disputes concerning that permit. Here, there are no disputes concerning the terms and conditions of the 1979 permit presented for Board disposition.

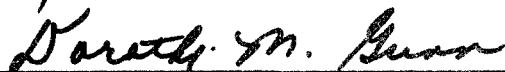
The Board will dismiss this matter. Since the parties are now in agreement (R. 3, 6; Ex. #1, pp. 2,4) and the Board is not being asked to resolve any disputed conditions of the 1979 permit, there is no case or controversy for the Board to resolve. Any Board disposition would, therefore, be an advisory opinion, which is beyond the power of this Board.

ORDER

The Petition of Village of Sauget for review of NPDES permit is hereby dismissed.

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 19<sup>th</sup> day of July, 1984, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board