

ILLINOIS POLLUTION CONTROL BOARD
April 16, 1984

VILLAGE OF LOMBARD,)
)
) Petitioner,)
)
) v.) PCB 83-147
)
) ILLINOIS ENVIRONMENTAL)
) PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by J. Anderson):

It has come to the attention of the Board that three exhibits entered into evidence at the December 7, 1983 hearing are not on file with the Board. These exhibits are, as described in the hearing record: Citizens' Exhibit 1, a photo taken by Linda Sullivan circa 1980 of flooding in Lombard (R. Dec. '83 p. 285-287); Citizens' Exhibit 2, a letter submitted by Mrs. Sullivan, written by Dr. Robert C. Felice, concerning allergies of Matthew Sullivan (R. Dec. '83 p. 285, 287-288) */; and Citizens' Group Exhibit 3, presented by Gloria Allen, consisting of letters/affidavits of 37 citizens whose homes are "on the 54 inch combined sewer line" who have been adversely affected by surcharging, and "336 signatures" of Village residents requesting denial of variance (R. Dec. '83 p. 315-318).

Agency exhibits are also missing from the file. These exhibits, introduced at the January 4, 1984 hearing, are Agency Proposed Exhibits 1-10, discussed at p. 133, 158-162. These fall into two categories. Exhibits 4, 6, and 10 are apparently letters addressed to Mr. Taylor, which the Hearing Officer admitted over objection (R. Jan. '84, p. 161). The Agency moved for admission of the rest of the exhibits, but, while no objection was made,

*/ The Board notes that a notarized original of this letter received by the Board December 6, 1983, is contained in its public comment file in this case. It is not, however, the actual exhibit received and marked at hearing, since the Board retained this original and sent duplicates to the Hearing Officer and Mrs. Sullivan via one of its staff who attended the December 7 hearing. The original will, however, be marked as Citizens' Exhibit No. 2 and placed in the exhibit file.

the record does not formally indicate their acceptance into evidence (R. Jan. '84, p. 158-161). Given the lack of objection, Agency Exhibits 1, 2, 3, 5, 7, 8 and 9 should also have been included in the Board's record in this matter.


To protect the rights of all parties to this action both before the Board and before any appellate court, the Board on its own motion will open this proceeding for reconsideration. Any party or other person in the possession of either the originals, or duplicate copies, of these exhibits are requested to file them with the Board on or before May 10, 1984. Duplicate copies of any filed exhibits will then be transmitted by the Board to its Hearing Officer. Any objections to the accuracy of any such filings shall be made to the Hearing Officer on or before May 21, and any responses thereto on or before June 1, 1984. Prior to ruling on any such objections, the Hearing Officer shall schedule and hold a hearing limited to discussion of any claimed discrepancy between the exhibits as originally entered and those filed with the Board pursuant to this Order.

Upon completion of the record, the Board will enter an Order affirming, reversing, or otherwise amending its March 21, 1984 Opinion and Order.

Finally, the Board notes that this reconsideration is not subject to statutory time deadlines, see Modine Mfg. Co. v. IPCB, 40 Ill. App. 3d 498, 351 N.E. 2d 875 (1976). However, the Board will handle this matter as expeditiously as is practicable.

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 16th day of April, 1984 by a vote of 6-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board