

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 2005

VILLAGE OF LAKE BARRINGTON, )  
CUBA TOWNSHIP, PRAIRIE RIVERS )  
NETWORK, SIERRA CLUB, BETH )  
WENTZEL and CYNTHIA SKRUKRUD, )

Petitioners, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY and VILLAGE )  
OF WAUCONDA, )

Respondents. )

PCB 05-55  
(Third-Party NPDES Permit Appeal –  
Water)

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SLOCUM DRAINAGE DISTRICT OF )  
LAKE COUNTY, ILLINOIS )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY and VILLAGE )  
OF WAUCONDA, )

Respondents. )

PCB 05-58  
(Third-Party NPDES Permit Appeal –  
Water)

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AL PHILLIPS, VERN MEYER, GAYLE	)	
DEMARCO, GABRIELLE MEYER, LISA	)	
O'DELL, JOAN LESLIE, MICHAEL	)	
DAVEY, NANCY DOBNER, MIKE	)	
POLITIO, WILLIAMS PARK	)	
IMPROVEMENT ASSOCIATION, MAT	)	
SCHLUETER, MYLITH PARK LOT	)	
OWNERS ASSOCIATION, DONALD	)	
KREBS, DON BERKSHIRE, JUDY	)	
BRUMME, TWIN POND FARMS	)	
HOMEOWNERS ASSOCIATION, JULIA	)	
TUDOR, and CHRISTINE DEVINEY,	)	
	)	
Petitioners,	)	
	)	
v.	)	PCB 05-59
	)	(Third-Party NPDES Permit Appeal –
ILLINOIS ENVIRONMENTAL	)	Water)
PROTECTION AGENCY and VILLAGE	)	
OF WAUCONDA,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.T. Girard):

On January 11, 2005 Village Of Lake Barrington, Cuba Township, Prairie Rivers Network, Sierra Club, Beth Wentzel and Cynthia Skrukrud (PCB 05-55 petitioners) along with Wauconda (Wauconda) filed a stipulation. The stipulation notes that “upon the Pollution Control Board’s acceptance and approval of the terms of this Stipulation” the PCB 05-55 petitioners will ask the Board to dismiss the permit appeal in PCB 05-55. Stip. at 8. The stipulation further indicates that “if the Board does not approve and accept” the stipulation, the stipulation will remain binding on the parties to the stipulation. Stip. at 12. The stipulation does not include any indication that the Illinois Environmental Protection Agency (Agency) is a party to the stipulation.

The Board has repeatedly stated a reluctance to accept settlement agreements in permit appeals. The Board has stated:

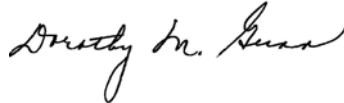
The Board has difficulty in dealing with settlement in permit appeal cases which involve the Agency issuance of negotiated permit containing conditions for which no record exists “setting out sufficient technical fact and legal assertions to allow the Board to exercise its independent judgment and to make proper findings of fact and conclusion of law.” Caterpillar Tractor Co. v. IEPA, PCB 79-180 (June 2, 1983) *slip op* at 1-2. The Board has not issued orders incorporating the terms of such stipulations as the Board does in enforcement cases. Meyer Steel Drum,

Inc. v. IEPA, PCB 92-76 (Aug. 13, 1992); General Electric Company v. IEPA, PCB 90-65 (Sept. 12, 1991).

The Board's reluctance is even more pronounced given that the Agency, a named respondent, is not a party to the stipulation. Therefore, the Board declines to accept the stipulation.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 3, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board