

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED** CLERK'S OFFICE

WESLEY BRAZAS, JR.,

Petitioner

v.

MR. JEFF MAGNUSSEN, PRESIDENT
VILLAGE OF HAMPSHIRE
and the
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondents

JUN 15 2006

STATE OF ILLINOIS
Pollution Control Board

PCB 06-131

(Appeal from Illinois EPA
decision granting modified
NPDES permit)

**RESPONSE
TO REQUEST THAT THE MOTION FOR LEAVE
TO FILE A BRIEF AMICUS CURIAE BE DENIED**

Now comes Jane L. Collins, *Amicus Curiae* and Counsel to Charles St. George, 17N635 Big Timber Road, Hampshire, Illinois 60140, and, pursuant to 35 Ill. Adm. Code 101.110, hereby requests the Board to grant the Motion to File a Brief *Amicus Curiae*, such request supported by the following:

1. The present proceeding is an appeal from the IEPA's decision to issue a modified NPDES permit to the Village of Hampshire to expand its sewage treatment facility to 1.5 mgd.
2. Permission to file an *amicus* brief in support of the Petitioner was requested by Attorney Collins on June 6, 2006 in a Motion for Leave to File said brief.
3. The brief supported the Petitioner's appeal, by arguing that the IEPA's decision to issue the modified NPDES permit violated state and federal laws, Board rules and the Public Trust Doctrine.
4. Respondents, Jeffrey Magnussen, Village of Hampshire President, and Village of Hampshire, by and through their attorney, Mark Schuster, filed a Response to the Motion for Leave to file the *amicus* brief electronically on June 13, 2006, requesting that the Motion be denied, or if not denied, then reduced to one issue.
5. Board rules allow any interested person to file an *amicus* brief. 35 Ill. Adm. Code 101.200. Respondents do not deny that Mr. St. George through his counsel, is an interested person. "Mrs. Collins, on behalf of her client, Charles St. George, filed written comment on July 9, 2006 [*sic*]." Response, para.3.

PCB No. 06-131

6. Respondents' narrow construction of an *amicus* brief would suppress consideration of fundamental issues relevant to upholding constitutional principles and ensuring environmental protection, such issues being the very essence of such a brief, and so, would undermine and chill the fundamental reason the Board may allow such briefs, to **encourage public participation** [emphasis added]. Ill. Adm. Code 101.110.

7. Respondent's allegation that the *amicus* brief raises facts not in the record is baseless, for Respondents' Brief filed on June 5, 2006 cites the same "record" that the *amicus* brief relies on: all of the proceedings, beginning in 2005, leading to the IEPA's issue of the permit in question.

WHEREFORE, Ms. Jane Collins, Counsel to Charles St. George and *Amicus Curiae*, respectfully requests that the Board grant the Motion for Leave to File the *amicus* brief, and deny the Respondents' prayer.

CHARLES ST. GEORGE, Hampshire
Resident and Interested Party
& JANE L. COLLINS, *Amicus Curiae*
and Counsel to Charles St. George

BY: Jane L. Collins
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SENT BY FACSIMILE

DATE: June 15, 2006
TO: Clerk, Illinois Pollution Control Board, 312-814-3669
RE: PCB 06-131

Please accept the following two-page response to a response filed electronically by Respondents in the above case on June 13, 2006, but not available for viewing until late on June 14, 2006.

Permission was given by Hearing Officer Halloran to transmit ^{*}an *amicus* brief; I hope that permission extends to this response.

3 pages

* by fax