

ILLINOIS POLLUTION CONTROL BOARD  
July 21, 2008

CITY OF QUINCY, an Illinois municipal corporation,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 08-86
	)	(NPDES Permit Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
	)	
Respondent.	)	

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

On May 15, 2008, at the parties' request, the Board extended until July 30, 2008, the time period for the City of Quincy (Quincy) to appeal a March 27, 2008 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.208. The Agency's determination concerns the Quincy wastewater treatment facility located at 700 West Lock & Dam Road in Quincy, Adams County. On July 16, 2008, Quincy timely filed a petition asking the Board to review the Agency's determination. *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 101.300(b), 105.208(a). For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (415 ILCS 5 (2006)), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5 40(a)(1) (2006); 35 Ill. Adm. Code 105, Subpart D. In this case, the Agency issued a National Pollutant Discharge Elimination System (NPDES) permit to Quincy, subject to conditions. Quincy appeals on the numerous grounds. For example, according to Quincy, the Agency's designation of certain waters as "sensitive areas" in Special Condition 14(7) of the NPDES permit, and the conditions based on those designations, are contrary to the factual record, applicable law, and the Agency's prior actions and interpretations of applicable laws and policies. Petition at 3. Quincy's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. Quincy has the burden of proof. *See* 415 ILCS 5/40(a)(1) (2006)); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency's reasons for denying or conditionally granting the permit, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA,


PCB 01-170 (Dec. 6, 2001), *aff'd sub nom. Community Landfill Co. & City of Morris v. PCB & IEPA*, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2006)), which only Quincy may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Quincy “shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2006)].” 415 ILCS 5/40(a)(3)(2006). Currently, the decision deadline is November 13, 2008, which is the 120th day after the Board received the petition. The Board meeting immediately before the decision deadline is scheduled for November 6, 2008.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by August 15, 2008, which is the 30th day after the Board received Quincy’s petition. *See* 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 21, 2008, by a vote of 4-0.



---

John Therriault, Assistant Clerk  
Illinois Pollution Control Board