

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1986

CITY OF DIXON,)
)
 Petitioner,)
)
 v.) PCB 85-217
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

This docket was initiated upon the December 30, 1985 filing of what was captioned as a joint petition seeking an extension to the December 31, 1985 deadline contained in 35 Ill. Adm. Code 306.373 for the filing of petitions for exceptions to the combined sewer overflow (CSO) regulations. The petition follows the pleading format of a CSO petition. In brief, it recites that dry weather has rendered necessary monitoring impossible.

While confusion is understandable, given the hybrid nature of the CSO exception, the Board believes that as a matter of procedure this request is actually, and more appropriately handled, as a petition for variance from Section 306.373 particularly given the parties' desire to waive hearing in the matter. The petition is, however, inadequate as a variance petition.

Rather than dismissing this good faith petition, the Board has recaptioned this docket and realigned the parties. The City of Dixon is given 45 days to file a petition for variance fulfilling the informational requirements of Part 104 of the Procedural Rules, and is specifically directed to note Section 104.124 requiring an affidavit if hearing is waived. The Board additionally suggests that the City may wish to consider whether it also needs variance from Section 306.306, setting CSO compliance deadlines, as the petition does not indicate whether the City qualifies for an extended compliance deadline by fulfilling all of the requirements of Section 306.306(d)(1-3). If an amended petition is not filed within 45 days of the date of this Order, this petition will be subject to dismissal.

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 9th day of January, 1986, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board