

ILLINOIS POLLUTION CONTROL BOARD  
April 19, 2007

CITY OF JOLIET, )  
)  
Petitioner, )  
)  
v. ) PCB 07-94  
) (Permit Appeal - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

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

On March 21, 2007, the City of Joliet (City) timely filed a petition asking the Board to review a February 16, 2007 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2007); 35 Ill. Adm. Code 105.206(a). The determination concerns a supplemental permit addressing the City's application of sewage sludge to agricultural lands. For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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) (2004); 35 Ill. Adm. Code 105.Subpart B. In this case, the City states that it owns and operates three wastewater treatment plants. According to the petition, the City operates water pollution control facilities as part of its wastewater treatment plant operations, the sewage sludge from which is permitted to be applied by the City to agricultural lands. On February 16, 2007, the Agency modified the City's sewage sludge permit (Permit No. 2006-SC-4784-2). The City objects to Special Condition No. 2 in the February 16, 2007 permit, maintaining that there is no basis in law or fact to support inclusion of the condition as written. The City's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

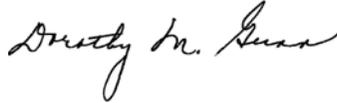
The Board accepts the petition for hearing. The City has the burden of proof. *See* 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). 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.* 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) (2004)), which only the City may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the City “may deem the permit issued” as requested. 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is July 19, 2007, which is the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 12, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 20, 2007, which is 30 days after the Board received the City’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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 19, 2007, by a vote of 3-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board