

ILLINOIS POLLUTION CONTROL BOARD
September 28, 1989

IN THE MATTER OF:)
)
JOINT PETITION OF THE CITY OF)
BELLEVILLE AND THE ILLINOIS) PCB 85-218
ENVIRONMENTAL PROTECTION) (Combined Sewer
AGENCY FOR EXCEPTION TO THE) Overflow Exception)
COMBINED SEWER OVERFLOW)
REGULATIONS)

Order of the Board (by J.D. Dumelle):

This matter comes before the Board upon an August 7, 1989, motion for modification of a Board Order, filed by the City of Belleville. On September 14, 1989, the Illinois Environmental Protection Agency (Agency) filed its response to Belleville's motion.

In support of its motion, Belleville states that on November 19, 1987, the Board issued an Order in regard to the City's petition for a Combined Sewer Overflow Exception based upon a proposed Municipal Compliance Plan negotiated with the Agency. The Order (1) grants an exemption from Section 306.305 (a) and (b) as they relate to the City's proposed First Flush Basin, and (2) requires Belleville to implement system modification as detailed in its Municipal Compliance Plan (MCP) of September, 1986. Belleville states that subsequent to this order, design for the project commenced and has been completed on schedule. However, the initiation of the construction date of March 1, 1989 has not been met due to the lack of a construction permit from the Agency.

Belleville states that the permit has been withheld for two reasons--first, the lack of an acceptable MCP amendment showing revised milestone dates corresponding to realistically attainable future dates, and second, a consent decree between the City and the United States Environmental Protection Agency (USEPA) regarding specific fines and remedies for past violations of the Clean Water Act.

The City states that it has appeared in federal court concerning the consent decree and the parties have been instructed to reach a settlement on or before September 1, 1989. The City states that the MCP has been amended and tentatively accepted by the Agency, although circumstances will require additional modifications. Notwithstanding these modifications, the Agency has issued the necessary permit and the City will advertise for bids within 30 days of its August 7, 1989 letter. Therefore, the City requests, in accordance with instructions from the Agency, that the Board modify its order of November 19, 1987 to include the revised MCP Project Schedule.

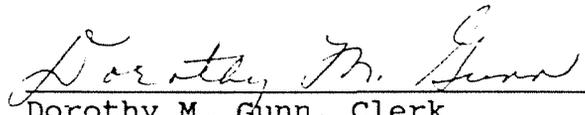
In its response, the Agency moves the Board to grant Belleville's motion. The Agency states that it believes that the Board Order should be amended to incorporate the present design changes and to extend the construction schedule. The Agency states, however, that should the modified construction schedule become either too lenient or not feasible in the context of complete compliance, the federal court may approve another schedule.

Before the Board rules upon this motion, the Board requests information from each party on the status of the federal court action. Specifically, (1) whether the Settlement Agreement has in fact been approved, (2) if not, when the parties anticipate such approval to occur, and (3) if approved, what are its terms. So that the Board may rule upon this motion at its next scheduled meeting on October 18, 1989, the Board requests this information to be received by the Board no later than Friday, October 13, 1989.

IT IS TO ORDERED.

Board Member R. Flemal dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certifies that the above Order was adopted on the 28th day of September, by a vote of 5-1.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board