

ILLINOIS POLLUTION CONTROL BOARD

December 19, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
))
 Complainant,))
))
 vs.)) PCB 71-259
))
CITY OF MONMOUTH,))
))
 Respondent.))

ORDER OF THE BOARD (by Mr. Henss):

This enforcement case was remanded to the Board by the Illinois Supreme Court for the sole purpose of determining whether "special conditions" which were imposed by the EPA in a permit which was issued pursuant to Board Order were improper. The proceeding, when it was originally commenced, did not involve a permit but was a prosecution alleging that Monmouth had violated Section 9(a) of the Environmental Protection Act by the emission of obnoxious odors from a sewage lagoon operated by the City. While appeal was pending the Agency issued a permit for installation of a gas collection cover on the lagoon. The controversy over certain conditions which were imposed by the Agency in the permit was first raised in the Appellate Court. The Supreme Court has disposed of all other issues but has ordered us to consider whether the permit conditions were proper.

We scheduled this matter for hearing pursuant to the remanding order of the Illinois Supreme Court but the parties have now filed a Joint Motion asking that we dismiss the matter as moot. Both the City of Monmouth and the Environmental Protection Agency request that the hearing we had scheduled be cancelled.

The parties state that the permit which had been challenged before the Appellate Court and Supreme Court is no longer operative and forms no basis any longer for any reliance by any party. Since the issuance of the permit, the Board has adopted a complete new set of water regulations which have entirely altered the requirements applicable to the subject lagoon, and the waste water treatment system of the City of Monmouth has been redesigned. The City of

Monmouth is now in possession of a different permit which was issued January 23, 1974 with terms substantially different from the terms of the original permit. The parties state that no cause in controversy any longer exists in relation to the March 10, 1972 permit and no meaningful remedy could be afforded any party irrespective of any Board decision regarding the propriety or impropriety of the special conditions imposed by the Agency in the pre-existing permit.

We agree with the parties that the case is moot.

ORDER

It is the Order of the Pollution Control Board that:

1. This cause is dismissed as moot.
2. The hearing heretofore scheduled in this cause be cancelled.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 19th day of December, 1974 by a vote of 4 to 0.

Christan L. Moffett (gr)