

ILLINOIS POLLUTION CONTROL BOARD
January 8, 2004

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Belvidere North CACR),)
)
Petitioner,)
)
v.) PCB 04-10
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ILLINOIS STATE TOLL HIGHWAY)
AUTHORITY (Belvidere North CAP),)
)
Petitioner,)
)
v.) PCB 04-11
) (UST Appeal)
ILLINOIS ENVIRONMENTAL) (Consolidated)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

This matter is before the Board on a December 12, 2003 motion to consolidate filed by the Illinois State Toll Highway Authority (ISTHA). To date, the Illinois Environmental Protection Agency (Agency) has not filed a response to the motion.

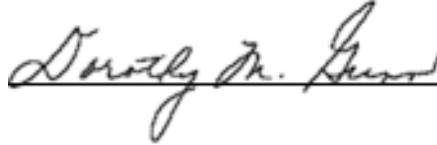
In the motion, the ISTHA requests that Board dockets PCB 04-10 and PCB 04-11 be consolidated for the purposes of hearing and decision. The ISTHA asserts that the parties and the burdens of proof are the same, and that the corrective action completion report at issue in PCB 04-10 is intertwined with the corrective action plan and budget at issue in PCB 04-11. Mot. at 1-2. The ISTHA contends that consolidation would not cause material prejudice to any party. Mot. at 2.

As previously stated, the Agency has filed no response to the motion. If a party files no response to a motion within 14 days the party will be deemed to have waived objection to the granting of the motion. *See* 35 Ill. Adm. Code 101.500(d). Pursuant to the Board's procedural rules, the Board will consolidate proceedings if the consolidation is in the interest of the convenient, expeditious and complete determination of claims and would not cause material

prejudice to any party. 35 Ill. Adm. Code 101.406. The Board will not consolidate proceedings where the burdens of proof vary. *Id.* The Board finds that consolidation is appropriate in this situation, however the motion is granted only in part. The two proceedings are consolidated for purposes of hearing, but not necessarily for decision. All future pleadings in this matter should be filed using the above caption.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 8, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board