

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1997

ST. CLAIR PROPERTIES)	
DEVELOPMENT, INC.,)	
)	
Petitioner,)	PCB 98-72
)	(Permit Appeal - Water)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On November 19, 1997, St. Clair Properties, Inc. (St. Clair) filed a petition for review of the denial of a construction permit regarding its facility located in St. Clair County, Illinois. The petition is a one paragraph document signed by St. Clair's president, Edward C. Vollmer. The document expresses some frustration that the Agency's denial letter did not describe the process of appeal to the Board in detail. The substance of the petition is, however, that "this letter is our official request of our right to a request for an official hearing before the Illinois Water Pollution Control Board." Attached to the document is a copy of the Agency's permit denial letter. The Board finds that the petition is deficient in two respects: non-compliance with 35 Ill. Adm. Code 105.102(a) and invalidity of representation of St. Clair by Edward C. Vollmer.

NON-COMPLIANCE WITH 35 ILL. ADM. CODE 105.102(a)

Section 105.102(a) of the Board's procedural rules specifies the information to be included in a petition for permit review. The petition filed by St. Clair's president fails to contain any of the information outlined in Section 105.102(a) of the Board's procedural rules. Although the Board can piece together some of the missing information by reading the Agency denial letter, this petition completely fails to include the most pertinent information, a statement of the reasons St. Clair believes that the Agency's denial of the permit application was improper. Consequently, the Board finds that the petition for review is deficient.

INVALIDITY OF REPRESENTATION OF ST. CLAIR BY EDWARD VOLLMER

Although the Board's current procedural rules would allow St. Clair to be represented by a non-attorney (see 35 Ill. Adm. Code 101.107(a)(2)), the Board has recently held that these rules violated the provisions of the Attorney Act (705 ILCS 205/1 (1996)) and the Corporation Practice of Law Prohibition Act (705 ILCS 220/1 (1996)). See In the Matter of Petition of Recycle Technologies, Inc. for an Adjusted Standard from 35 Ill. Adm. Code

720.131(c) (July 10, 1997), AS 97-9 (hereinafter RTI). Specifically, the Board found in RTI that a non-attorney could not represent a corporation in an adjusted standard proceeding without violating both the Attorney Act and the Corporation Practice of Law Prohibition Act. The Board believes that the rationale employed in RTI to find that a non-attorney was prohibited from representing a corporation in an adjusted standard proceeding applies equally to the situation presented in this matter. See also Sierra Club and Jim Bensman v. City of Wood River and Norton Environmental (October 2, 1997), PCB 98-43 (finding that a non-attorney could not represent a non-for-profit corporation in a landfill siting review case). Accordingly, St. Clair must be represented by an attorney.

Rather than dismissing this action immediately as some case law would suggest, the Board finds that special circumstances of the type also found in RTI apply here. Consistent with RTI, the Board grants St. Clair 30 days from the date of this order in which to retain an attorney and for that attorney to file an amended petition in this case on St. Clair's behalf. If an amended petition and attorney's appearance are not filed on or before December 22, 1997 (the 30th day being a Saturday), this permit appeal will be dismissed.

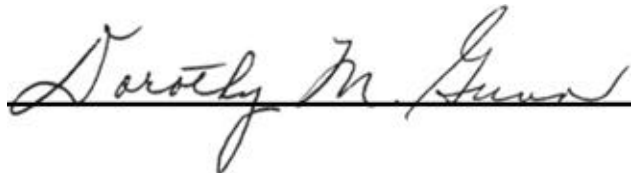
Moreover, the Board will consider the November 19, 1997, petition to be timely filed within the 35-day appeal period specified in Section 40(a)(1) of the Environmental Protection Act (Act) (415 ILCS 5/40(a)(1) (1996)). However, the statutory-decision deadline for the purposes of Section 40(a)(2) and (3) of the Act (415 ILCS 4/40(a)(2), (3) (1996)) will be calculated from the date of the filing of an amended petition curing the two deficiencies outlined in this order.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Board Members G.T. Girard and J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of November 1997, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board