

ILLINOIS POLLUTION CONTROL BOARD
January 24, 2002

FOX RIVER WATER RECLAMATION)
DISTRICT (SOUTH PLANT),)
)
Petitioner,)
)
v.) PCB 02-49
) (NPDES Permit Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On November 1, 2001, the Board, at the parties' request, extended until January 16, 2002 the time period within which the Fox River Water Reclamation District (District) may appeal a September 13, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.208(a). On January 15, 2002, the District filed a petition asking the Board to review the Agency's determination.

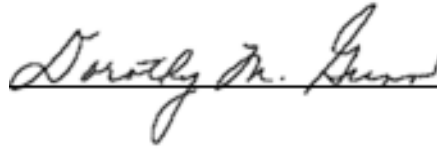
The Agency determination imposed conditions on the District's National Pollution Discharge Elimination System renewal permit. The District's south treatment plant in Elgin, Kane County, discharges to the Fox River. The District appeals on the grounds that the Agency refused to allow a compliance schedule for the District to construct improvements necessary to meet the new permit limits. The District's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

The Agency has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only the District may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the District "shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2000)]." 415 ILCS 5/40(a)(3) (2000). Currently, the decision deadline is May 15, 2002 (the 120th day after January 15, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 2, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after the District filed the petition. 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. 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 January 24, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board