

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1990

CITY OF OGLESBY,)
)
 Petitioner,)
)
 v.) PCB 86-3
) (CSO Exception)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On February 5, 1987, the Board granted the City of Oglesby ("Oglesby") a temporary exception from 35 Ill. Adm. code 306.305(a) and (b) of the Board's combined sewer overflow ("CSO") regulations. Condition 2 of the February 5, 1987 Order specified that the temporary exception would terminate on March 1, 1990, if Oglesby did not submit an amended petition for permanent exception on or before that date. On June 7, 1990, the Board relinquished its jurisdiction in the matter and closed the docket because Oglesby did not submit an amended petition by the March 1, 1990 deadline.

In response to the Board's June 7, 1990 Opinion and Order, Oglesby filed a Motion for Reconsideration and an Amended Petition on June 29, 1990. The Illinois Environmental Protection Agency ("Agency") filed its response to Oglesby's filings on September 6, 1990.

In its Motion for Reconsideration and Amended Petition, Oglesby states that there has been no expansion of its service area tributary to the combined sewers for residential hook-ups exceeding 15 population equivalents without prior Board authorization (see condition 3(b) of the February 5, 1987 Order). Oglesby also states that it has inspected the ravines and outfalls on several occasions, but that the inspections were not documented or specifically conducted as specified by the Board (see conditions 3(c) and (e) of the February 5, 1987 Order). Oglesby also states that it has consulted with the Agency, and that it has prepared a monitoring program which, when complete, will result in compliance with the provisions of the February 5, 1987 Order and provide the data necessary to present an amended petition for a permanent exception to the Board's CSO regulations. Oglesby has attached a document entitled "Proposed Monitoring Program to Comply with Illinois Pollution control Board Order No. 86-3", and the Affidavits of Gerald F. Scott (Mayor of Oglesby) and James J. Giordano (Consulting Engineer for Oglesby) as support for the allegation that it has consulted with the Agency and developed a monitoring program.

In its response, the Agency states that it has no evidence that Oglesby has complied with conditions 3(b), (c), and (e) of the February 5, 1987 Order. In fact, the Agency questions why Oglesby did not collect any data during the inspections of the ravines and outfalls. The Agency also states that it has no knowledge of any negotiations with Oglesby that resulted in the development of the monitoring program, or of whether the monitoring program will result in compliance with the provisions of the February 5, 1987 Order, or whether Oglesby will have the necessary data after completion of the monitoring program to request a permanent exception to 35 Ill. Adm. Code 306.305(a) and (b).

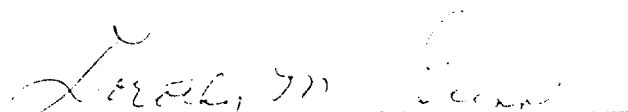
As can be seen above, the Agency questions several of Oglesby's assertions. In order to make a fully informed decision with regard to Oglesby's Motion for Reconsideration, the Board orders Oglesby to file a reply to the Agency's response on or before October 4, 1990. Oglesby's reply should include the following information:

1. any documentation or proof that it complied with condition 3(b) of the February 5, 1987 Order;
2. a chronology of Oglesby's inspections of the ravines and outfalls, including copies of any documentation of the inspections, data obtained from such inspections, and, if there is no data, an explanation as to why no data was collected;
3. a chronology of the contacts between Oglesby and the Agency, including a listing of the Agency personnel spoken to and a brief description of what transpired during each contact;
4. copies of all written correspondence between Oglesby and the Agency that relate to Oglesby's negotiations with the Agency and the monitoring program; and
5. any additional information or argument in reply to the concerns raised in the Agency's response.

IT IS SO ORDERED.

Board Member J. T. Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13th day of September, 1990, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board