

ILLINOIS POLLUTION CONTROL BOARD
April 6, 1989

IN THE MATTER OF:)
)
PETITION FOR SITE SPECIFIC)
EXCEPTION TO EFFLUENT STANDARDS)
FOR THE ILLINOIS-AMERICAN) R85-11
WATER COMPANY, EAST ST. LOUIS)
TREATMENT PLANT)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a March 10, 1989 motion for clarification filed by the Illinois Environmental Protection Agency (Agency). Petitioner Illinois-American Water Company (Company) filed its response on March 22, 1989, with a motion to file instanter. The motion to file instanter is granted.

The Agency asks the Board to clarify its February 2, 1989 opinion in this matter, where the Board expressed its trust that the Agency and the Company will work together on the issuance of a NPDES permit. The Agency notes that the Board's order makes 35 Ill. Adm. Code 304.124 inapplicable to the Company's East St. Louis water treatment plant until January 1, 1992. However, the Agency contends that it is obligated to apply the most restrictive of state or federal regulations. The Agency therefore seeks clarification that the Board's February 2, 1989 opinion and order "still requires the Agency to apply the more restrictive of state or federal regulations, and to determine the appropriate level of control required by the Federal Clean Water Act." (Motion at 2.)

In response, the Company states that the Board's prior opinions in this rulemaking have repeatedly and unequivocally addressed the matters raised in the Agency's motion. The Company points out that there are currently no federal effluent limitations applicable to water treatment plant waste, and thus maintains that the Agency's concern that it must apply the most restrictive state or federal regulations is inappropriate. The Company notes that the Board has determined that a temporary site-specific exemption is appropriate for the Company's East St. Louis facility, and contends that there is no conflict between the site-specific rule and applicable federal requirements.

The Board believes that its February 2, 1989 opinion and order are self-explanatory as to this rulemaking. The Board granted the Company a temporary exemption from the effluent standards for total suspended solids (TSS) and total iron of Section 304.124, and that exemption became effective when the

regulation was filed with the Secretary of State on February 6, 1989. On the issue of the NPDES permit, the Board stated:

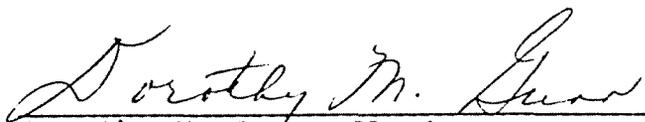
The Agency suggested the possibility that an NPDES permit could not be issued to the Company which did not contain numerical limitations on TSS and iron. Although the Company argues in its reply brief that numerical limitations should not be set, one of its attorneys stated at the hearing that the Company would be willing to work with the Agency for as long as necessary to work out NPDES limitations. (Tr. 178-179; 209-210.) The Board trusts that the Agency and Company will work together on the issuance of a permit.

(February 2, 1989, p. 10.)

The Board also noted that the United States Environmental Protection Agency (USEPA) has not yet promulgated regulations establishing effluent limitations on water treatment plant waste, and stated that "directives from USEPA give the Board and the Agency broad discretion in determining the appropriate standard of control to apply to discharges from water treatment plants." (February 2, 1989, p. 10.) The Board agrees with the Company that there is no conflict between the site-specific rule and applicable federal requirements. To any extent that the Agency's motion seeks clarification as to what effluent limitations should be established in a permit, the Board declines to address this issue at this time. Under the Environmental Protection Act (Act), the Agency has the authority to issue permits, not the Board. The Agency must issue permits in accordance with the Act and regulations promulgated thereunder, including the site-specific regulation temporarily exempting the Company from compliance with Section 304.124, as it applies to TSS and total iron. The motion for clarification is denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6th day of April, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board