

ILLINOIS POLLUTION CONTROL BOARD  
September 2, 2004

VILLAGE OF FRANKFORT, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 05-30  
 ) (Permit Appeal - Water)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J.P. Novak):

On August 18, 2004, Village of Frankfort timely filed a petition asking the Board to review a July 15, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). The Agency denied a joint construction and operation permit for the Village of Frankfort's extension of a sewer line that is tributary to the Village of Frankfort's wastewater treatment facility to and area outside the Village of Frankfort's facility planning area (FPA) in Cook and Will Counties.

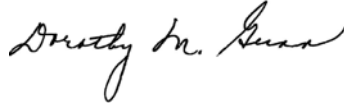
Village of Frankfort appeals on the grounds that the Agency acted outside the scope of its statutory authority by (1) creating an FPA; (2) creating an FPA based on political boundaries, and (3) denying a permit based on the extension of a sewer line beyond the boundary of an FPA. Village of Frankfort's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Village of Frankfort has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *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) (2002)), which only Village of Frankfort may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Village of Frankfort "shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2002)]." 415 ILCS 5/40(a)(3) (2002). Currently, the decision deadline is December 16, 2004 (the 120th day after August 18, 2004). *See* 35 Ill. Adm. Code 105.114. December 16, 2004 is the date of a scheduled Board meeting.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by September 17, 2004, which is 30 days after Village of Frankfort 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 September 2, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board