

ILLINOIS POLLUTION CONTROL BOARD
June 22, 1989

NORTHERN ILLINOIS)
ANGLERS' ASSOCIATION,)
an Illinois Corporation,)
)
Complainant,)
)
v.) PCB 88-183
)
CITY OF KANKAKEE,)
a Municipal Corporation,)
)
Respondent.)

JACK R. BEAUPRE APPEARED ON BEHALF OF THE COMPLAINANT.

GARY L. BROWN APPEARED ON BEHALF OF THE RESPONDENT.

ORDER OF THE BOARD (by J. Marlin):

On May 15, 1989 a hearing was held in this matter in Kankakee. At hearing, the parties entered into the record a signed Proposed Agreement and Stipulation (Stipulation). The Stipulation presents an agreed settlement of this action, and the parties have requested that the Board approve the Stipulation. (R. 3).

As terms of the stipulation the City of Kankakee (Kankakee) has agreed to pay \$5000 into a trust fund which is to be established by the Northern Illinois Anglers' Association (NIAA) and called the Kankakee River Protection Trust Fund. Evidently, the trust fund is to be used to establish an alternate fishery or for the enhancement of the Kankakee River. According to the Stipulation, Kankakee must also pay an additional \$10,500 to the Kankakee River Protection Trust Fund to reimburse NIAA for its costs relating to this matter.

Pursuant to the Illinois Environmental Protection Act the Board may only issue penalties which are to be paid to either the State's General Revenue Fund or the State's Environmental Protection Trust Fund. Additionally, the Board may only award costs in an enforcement case where either the Attorney General or State's Attorney has prevailed. Ill. Rev. Stat. 1987, ch. 111^{1/2}, par. 1042. Consequently, the Board cannot adopt, as its own Order, the Stipulation presented by the parties. This, though, does not preclude the parties from carrying out the terms of the Stipulation on their own. The Stipulation certainly appears to resolve all controversies between the parties.

Given these circumstances, the Board construes the Stipulation as a joint motion to dismiss without prejudice. The

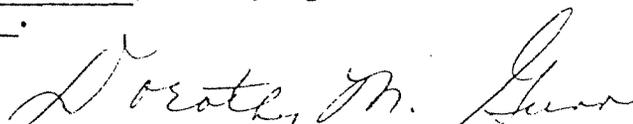
motion is granted, and this matter is dismissed without prejudice.

If today's Order frustrates the parties' intentions they are free to file a motion for reconsideration of this Order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111^{1/2} par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

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 22nd day of June, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board