

ILLINOIS POLLUTION CONTROL BOARD
June 5, 1986

IN RE: SITE-SPECIFIC)
RULEMAKING FOR THE) R84-30
CITY OF EAST PEORIA)

ORDER OF THE BOARD (by J. Anderson):

On January 9, 1986, the Board adopted for Second Notice East Peoria's requested effluent limitation with some monitoring requirements added at the request of the Illinois Environmental Protection Agency ("Agency"). The Board delayed submission to the Joint Committee on Administrative Rules ("JCAR") to allow the participants an opportunity to comment on the new monitoring requirements.

On January 24, 1986, the Agency submitted a public comment (P.C. No. 3) requesting the Board further defer sending the proposed rule to JCAR until the United States Environmental Protection Agency (USEPA) had reviewed the matter. On March 26, 1986, USEPA's review of the rule was filed with the Board as P.C. No. 4. USEPA's comment generally supported the Agency's position in this rulemaking that the petitioner failed to adequately demonstrate technical infeasibility, economic unreasonableness, or lack of potential influence on water quality standard attainment in the proposed receiving waters. The USEPA can object to any future NPDES permits issued under the site-specific rule, pursuant to 40 C.F.R. 123.44.

On March 31, 1986, the hearing officer, at the direction of the Board, transferred copies of P.C. Nos. 3 and 4 to East Peoria in order to provide an opportunity for response and comment. Neither the Agency nor USEPA had copied East Peoria on any of the correspondence. On April 28, 1986, East Peoria, by letter, requested additional time to provide comments to P.C. Nos. 3 and 4 and requested that the Board defer action in this matter (P.C. No. 5). On May 5, 1986, East Peoria filed its response to P.C. Nos. 3 and 4 (P.C. No. 6). East Peoria requests the Board submit the proposed rule to JCAR and proceed to final promulgation of the site-specific rule.

The extended comment period necessitated by the late comments filed by Agency and the fact that the Agency failed to provide East Peoria with copies of the correspondence, have resulted in the Board's inability to grant East Peoria's request at this time. The one-year deadline in the Illinois Administrative Procedures Act for promulgation of a proposed rule will expire on June 7, 1986. This deadline runs from the date of first notice publication in the Illinois Register to the date of

final filing with the Secretary of State's office. It is apparent that the 45-day second notice JCAR review period and final promulgation cannot be completed by this deadline.

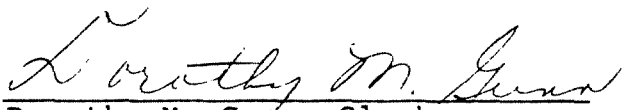
Therefore, the Board will allow the proposed rule to lapse and, by this Order, rescind its January 9, 1986, second notice Opinion and Order. The Board intends to let this proceeding remain on its docket pending resolution of issues regarding site-specific relief. If this course of action is not acceptable to East Peoria or the Agency, they are free to submit a motion for reconsideration of today's action, recommending an alternative approach.

IT IS SO ORDERED.

B. Forcade concurred.

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 5th day of June, 1986, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board