

ILLINOIS POLLUTION CONTROL BOARD
August 1, 1985

M.I.G. INVESTMENTS , INC., and)
UNITED BANK OF ILLINOIS,)
)
Petitioners,)
)
v.) PCB 85-60
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

On July 22, 1985 the Agency moved for leave to file its record instanter, as well as for leave to file an attachment inadvertently omitted from the brief it filed July 19, 1985. The motions are granted.

On July 19, the Agency also filed a motion for an emergency Board meeting, premised on the belief that this case was due for decision on August 3. The motion was withdrawn by filing of July 31, as at the time of filing the motion counsel for the Agency had not received a copy of the Board's Order of July 11, which had noted that the due date for this matter had been waived until August 15.

On July 30, M.I.G. filed a motion for leave to file its reply brief instanter, for reason of delay in its receipt of the Agency record. This motion is granted. To the extent that the brief appears to request that the hearing statement of Jerry Grubbs be stricken from the record (see p. 9-11), the motion will be taken with the case; to the extent it seeks to have a written statement stricken (see p. 10), the Board notes that no such statement appears to have been received, as it is not reflected in the Board's docket book.

As to the Board's July 11, 1985 inquiry concerning prior permit history of the site, the Agency's July 31, 1985 Response to the Board Order states that no such data is found in the Record; further, the Agency did not consider such matters in arriving at its decision to deny Petitioner's permit application (p. 1). The Board does not follow the logic of this assertion. A past permit would necessarily be consulted in considering a permit modification. The "permit application" (Item 3) as forwarded to the Board consists only of a transmittal letter and a notation "enclosures not included"; the extent of the alleged recontouring at issue is not of record, nor are the contours, if any, approved in any past permit. While M.I.G. in its brief supplies certain factual information (p. 8-9), the Board notes

that such information is not supported by affidavit. The Board grants leave to remedy these deficiencies by appropriate filings through and until August 8, 1985, at which time the record shall close unless a waiver of the decision deadline is received. Copies of any such filings shall be mailed directly to the downstate Board Members at their addresses below:

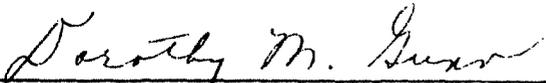
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The Clerk is directed today to notify counsel for each of these parties by telephone of the contents of this Order.

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 1st day of August, 1985, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board