

ILLINOIS POLLUTION CONTROL BOARD
November 6, 1986

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-135
)
VILLAGE OF PALOS PARK,)
)
Respondent.)

ORDER OF THE BOARD (by J. D. Dumelle):

This matter comes before the Board upon an August 27, 1986, petition for variance filed on behalf of the Village of Palos Park which by order of August 28, 1986, was construed by the Board as a motion to modify. The Illinois Environmental Protection Agency (Agency) responded to that motion on October 3, 1986.

At issue is the continued propriety of a condition imposed as part of the settlement of this matter by Order of April 3, 1980, whereby the Village was required to perform certain periodic sampling of various NPDES discharges. This requirement apparently would extend in perpetuity. The Village contends that the requirement no longer serves any purpose while the Agency contends that it remains appropriate. The Agency also questions the Board's authority to act on the request in the absence of additional hearings.

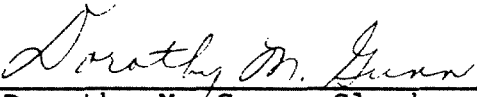
The procedural posture of this proceeding is unusual. Permanent variance relief was originally requested by the Village, but as the Board pointed out in its August 28 Order, permanent relief cannot be granted in a variance proceeding. Therefore, the Board will continue to treat this as a motion to modify. However, since the parties disagree on the propriety of granting the requested relief, the Board believes that a hearing should be held at which the parties can present evidence and arguments focusing on the continued propriety of the sampling requirement and the possibility of establishing some mechanism for a termination of that requirement upon the occurrence of some event or events which would obviate the necessity of that condition.

The parties are, of course, free to negotiate a settlement of this matter which could form the basis of the hearing.

This matter is hereby set for hearing.

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 November, 1986 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board