

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2022

AQUA ILLINOIS, INC.,)
)
 Petitioner,)
)
 v.) PCB 23-46
) (Permit Appeal - Water)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C. M. Santos):

On September 30, 2022, the parties timely filed a joint notice to extend the 35-day period within which Aqua Illinois, Inc (Aqua Illinois) may appeal an August 30, 2022 determination of the Illinois Environmental Protection Agency (Agency or IEPA). *See* 415 ILCS 5/40(a)(1) (2020; 35 Ill. Adm. Code 101.300(b), 105.206(c), 105.208(a), (c). In the determination, the Agency set Optimal Water Quality Parameter (OWQP) ranges and monitoring frequencies for Aqua’s University Park public water system located in Will and Cook Counties.

On October 6, 2022, the Board extended the appeal period as requested for 30 days to November 3, 2022. *See* 415 ILCS 5/40(a)(1) (2020); 35 Ill. Adm. Code 105.208(a).

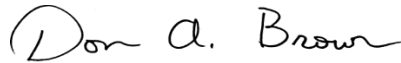
On November 1, 2022, Aqua Illinois filed a request for an additional extension of the appeal period (Req.). Aqua Illinois reports that “[t]he parties have been working together in good faith to negotiate the possible resolution of disputed issues.” Req. at 2. The parties request a 60-day extension of the appeal period to January 2, 2023. Aqua Illinois reposts that the agency “supports the requested extension.” *Id.*

The Board recognizes that the requested extension would allow the parties “to continue to work toward the possible resolution of disputed issues.” Req. at 2. However, “the 35-day period for petitioning for a hearing may be extended for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency *within the initial appeal period*. 415 ILCS 5/40(a)(1) (2020) (emphasis added). The Board’s procedural rules cite this provision and add that “[t]he applicant and the Agency must jointly file a request for extension with the Board *within 35 days after the date of service of the Agency’s final decision*. 35 Ill. Adm. Code 105.208 (emphasis added). With service on August 30, 2022, the initial appeal period of 35 days ended on October 4, 2022. During the initial appeal period, the parties requested that the Board extend the filing deadline by a period not exceeding 90 days. The Act does not provide the Board authority to extend an appeal deadline once the initial 35-day appeal period has passed.

Under these circumstances, the Board construes Aqua Illinois' unopposed request as a timely petition for review of IEPA's determination. The Board directs Aqua Illinois to file an amended petition for review within 60 days after the extended deadline, on or before Tuesday, January 3, 2023. IMTT Illinois, LLC v. IEPA, PCB 20-47 (Feb. 20, 2020); *see* 35 Ill. Adm. Code 101.300(a). If Aqua Illinois does not file an amended petition on or before that deadline, the Board will dismiss this appeal.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 17, 2022, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk
Illinois Pollution Control Board