

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1995

THF BELLEVILLE DEVELOPMENT L.P.,)
)
 Petitioner,)
)
 v.) PCB 96-99
) (Permit Appeal-Water)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Yi):

On November 3, 1995, THF Belleville Development, L.P., Inc. (THF Development) filed a petition for review of a permit regarding its facility, located in Belleville, St. Clair County, Illinois. THF Development is appealing a condition of its permit which would require carbon treatment of the discharge from its "SVE system", which it operates pursuant to the Illinois Pre Notice Site Cleanup Program, to the city sewer. (Pet at 1.)¹ On November 7, 1995, THF Development filed an amended petition which included two attachments.² THF Development stated that it filed the amended petition because it failed to include two attachments with its November 3, 1995 National Pollution Discharge Elimination System (NPDES) permit appeal. (Amend. Pet. at 1.)

The first exhibit attached is a supplemental permit entitled "Illinois Environmental Protection Agency Water Pollution Control Permit" issued on October 5, 1995 to THF Development. (Amend. Pet. Exh. A.) The second exhibit attached is a letter to Illinois Environmental Protection Agency (Agency) personnel, Mr. Steve Nightingale, Permit Section. (Amend. Pet. Exh. B.) In that letter THF Development explains that the BTEX levels of the groundwater it will be discharging to the sewer line should not pose a danger which would require treatment prior to discharge to the sewer. (Amend. Pet. Exh. B at 2.) The last paragraph of this letter explains that they are filing this permit appeal because they recognize that the Agency may not be able to respond by November 6, 1995. (Amend. Pet. Exh. B at 2.)

¹The November 3 petition will be referenced as "Pet. at ", the Nov 7 amended petition will be referred to as "Amend. Pet. at", and the Illinois Environmental Protection Agency' motion to dismiss will be referenced as "Mot. at ".

²It should be noted that the amended petition was served on Dorothy M. Gunn, Clerk of the Board and Ms. Mary Gade, Director of the Illinois Environmental Protection Agency.

The Agency on November 13, 1995 filed a motion to dismiss the permit appeal for failing to provide the necessary information in its petition pursuant the Board's procedural rule at 35 Ill. Adm. Code 105.102(a)(2). The Agency states "[t]he petition filed on November 3, 1995 lacks the mandatory information required by the Board regulations" and proceeds to list the lacking information. (Mot. at 2.) The Agency argues that the petition lacks; a citation of the particular standards under which the permit is sought, a complete and precise description of the facility and SVE equipment, a complete description of the contaminant emissions and proposed methods for their control and a demonstration that the activity will not cause a violation of the Environmental Protection Act and Board regulations. (Mot. at 2.)

Regardless of whether THF Development has entitled its appeal, the Board agrees with the Agency in that this permit appeal is not an NPDES permit appeal but is a permit appeal of a water permit issued by the Agency pursuant to Section 39 of the Environmental Protection Act (Act) and brought by THF Development pursuant to Section 40 of the Act. (415 ILCS 5/39 and 5/40 (1994).) Being such an action, the petition content requirements of the Board's procedural rule at 35 Ill. Adm. Code 105.102(a)(2) apply to this matter. That rules states in pertinent part:

The petition shall include:

- A) Citation of the particular standards under which a permit is sought;
- B) A complete and precise description of the facility, equipment, vehicle, vessel, or aircraft for which a permit is sought, including its location;
- C) A complete description of contaminant emissions and of proposed methods for their control; and
- D) Such other materials as may be necessary to demonstrate that the activity for which the permit is sought will not cause a violation of the Act or regulations.

The Board agrees that the petition of November 3, 1995 is deficient in all of the above informational requirements. However the amended petition filed November 7, 1995 does address many of the informational requirements.

Therefore, the Board denies the Agency's motion and directs THF Development to file another amended petition on or before January 19, 1996. Such amended petition should fully address the

informational requirements concerning description of the facility and equipment, a complete description of the contaminant and proposed methods for their control, and a description of the regulations applicable to its site. The filing of the amended petition will automatically restart the 120 days decision timeclock for this matter. Failure to file an amended petition, or any other appropriate motion, will cause this matter to be dismissed.

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 ___ day of _____, 1995, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board