

ILLINOIS POLLUTION CONTROL BOARD
June 7, 1990

CITY OF BATAVIA,)	
)	
Petitioner,)	
)	
v.)	PCB 89-183
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on petitioner the City of Batavia's (Batavia) motion for leave to add additional counsel and to file supplemental exhibits, filed June 4, 1990. Batavia asks that it be granted leave to file two additional exhibits: a letter from Batavia's attorney which updates Batavia's progress in obtaining properties necessary for new wells, and a letter from the city engineer giving radium levels of additional water samples. The letter from the city attorney states that Batavia has entered into a contract for the purchase of one of the sites necessary for the compliance plan, and that Batavia and the owner of another piece of property have reached a settlement and expect that settlement to be approved within 30 days.

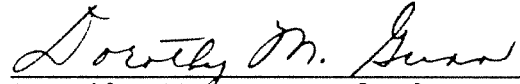
The Board notes that the Illinois Environmental Protection Agency's (Agency) time to respond to this motion has not yet expired, and that the Board's procedural rules state that it will not grant a motion before the expiration of the response period, unless undue delay or material prejudice will result. (35 Ill. Adm. Code 101.241(b).) The Board finds that deferring ruling on Batavia's motion would result in undue delay, and hereby grants Batavia's motion to add additional counsel and file new exhibits. The Agency may respond to the additional information submitted by Batavia by June 25, 1990. Batavia shall submit a copy of an executed contract for purchase of the "Harris Bank" property, referred to in the city attorney's letter, by July 9, 1990.

Because the additional exhibits submitted by Batavia contain new information, the Board construes the filing as an amended petition. Therefore, the decision deadline restarts as of June 4, 1990. The Board notes that it has previously granted Batavia's motion for expedited decision, however, and intends to reach a final decision on this case in July 1990.

IT IS SO ORDERED.

B. Forcade dissented.

I, Dorothy M. Gunn, hereby certify that the above Order was adopted on the 7th day of June, 1990, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board