

ILLINOIS POLLUTION CONTROL BOARD
March 5, 2015

VILLAGE OF CARLOCK,)
)
Petitioner,)
)
v.) PCB 15-110
) (Water Well Setback Exception)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J.D. O’Leary):

On December 12, 2014, the Village of Carlock (Village) filed a petition (Pet.) requesting an exception from the water well setback requirement at Section 14.2(a) of the Environmental Protection Act (Act). Pet. at 1, citing 415 ILCS 5/14.2(a) (2012); 35 Ill. Adm. Code 106.Subpart C (Water Well Setback Exception Procedures). Below, the Board accepts the Village’s petition and directs its hearing officer to schedule the required hearing. See 35 Ill. Adm. Code 106.308.

In the petition, the Village reports that it is constructing a new water treatment plant on property it owns located at 300 South Perry Street, Carlock, McLean County. Pet. at 1. The Village states that the new plant addresses violations of the maximum contaminant level for arsenic and is intended to comply with an administrative order issued by the United States Environmental Protection Agency. The Village adds that it is constructing a septic system on that property to serve the new plant. *Id.* The Village will also connect a new maintenance building and office on adjacent property to the septic system. *Id.*

The Village reports that two community water supply wells are located on its property within the 200-foot setback from the septic system. Pet. at 1-2; see 415 ILCS 5/14.2(a) (2012). In support of an exception from that setback, the Village argues that the risk of contamination of the wells is low because of natural geological features and because the wells supply water from a confined portion of the aquifer. Pet. at 2. The Village further argues that compliance with the 200-foot setback would pose an arbitrary and unreasonable hardship upon it. The Village claims that purchasing additional property on which to construct the septic system or constructing a new well would result in “significant additional cost to the Village.” *Id.* The petition states that the location of the septic system uses the maximum feasible setback. *Id.* In addition, the Village commits to annual inspection and maintenance of the septic system and monthly bacteriological testing of the wells. *Id.*

On December 21, 2014, the Agency responded to the petition (Resp.). See 35 Ill. Adm. Code 106.306(a). The Agency first stated that the Village should clarify whether the septic system would receive only sanitary waste or whether it “will also receive plant waste with concentrated arsenic.” Agency Resp. at 3. The Agency also stated that the Village “should

provide cost estimates for the purchase of additional property or a discussion of the availability of such property proximate to the site, and the costs of a new well and associated infrastructure to support their assertion that denial of an exception will result in an arbitrary and unreasonable hardship on the Village.” *Id.* at 4. While the Agency recommended that the Board deny the petition, it requested that the Village provide the requested information. *Id.* at 5. The Agency added that it would re-evaluate its recommendation after receiving this information. *Id.*

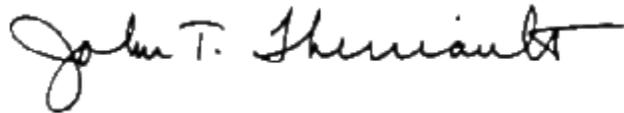
On February 2, 2015, the Village filed its Reply to the Agency (Reply). *See* 35 Ill. Adm. Code 106.306(b). The Villages stated that “[w]ater with concentrated arsenic will not be discharged into the proposed system.” Reply at 3. The Village also attached two exhibits, the first a preliminary estimate of costs to purchase additional property for relocation of the septic system and the second a preliminary estimate of costs for a new well.

On February 6, 2015, the Agency filed a response to the Village’s reply (Resp. 2). The Agency stated that, based on the additional information submitted in the reply, it had reconsidered its previous recommendation. Resp. 2 at 2. The Agency stated that it “now recommends the Board grant the petition because the Petitioner has provided adequate proof” under the Act and the Board’s regulations. *Id.*, citing 415 ILCD 5/14.2(c) (2012); 35 Ill. Adm. Code 106.310.

Based on its review of the Villages’ petition and the additional information it has submitted, the Board accepts the Village’s petition for hearing at which the Village has the burden of proof. 35 Ill. Adm. Code 106.310. The Board directs its hearing officer to proceed to hearing as required by the Board’s regulations. *See* 35 Ill. Adm. Code 106.308. The Board may request additional information addressing the merits of the petition in a Board or hearing officer order.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 5, 2015, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board