

ILLINOIS POLLUTION CONTROL BOARD  
January 11, 1995

CITY OF ELGIN, )  
 )  
Petitioner, )  
 )  
v. ) PCB 94-371  
 ) (Water Well Setback Exception)  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J. Yi):

On December 2, 1994 the City of Elgin (City) filed a petition for an exception to the water well setback requirements, pursuant to Section 14.2(c) of the Environmental Protection Act (Act) and the Board's procedural rules at 35 Ill. Adm. Code 106.601 et. seq. (415 ILCS 5/14.2(c) (1992).) The water well setback requirements set forth in Section 14.2 of the Act provide minimum set back zones from public water supply wells for the location of each new potential source. (415 ILCS 5/14.2 (1992).) The Illinois Environmental Protection Agency (Agency), on December 22, 1994, filed a motion to dismiss or alternatively an order requesting clarification and more information.

The City is requesting the Board to grant an exception from the water well setback exception in order to construct new lime residue storage lagoons at its Airlite Street Water Treatment Plant located at 74 North Airlite Street, Elgin, Illinois. (Pet. at 1.)<sup>1</sup> The City states that its current lagoons are located approximately 20 feet from one of its water supply wells and within the 200 feet minimum setback zone for its other three water supply wells. The City states that the facility is surrounded by an elementary school, hospital, residential areas and a private property that do not permit adjacent relocation of the lagoons. The existing lagoons were constructed in the 1960s and must now be closed pursuant to 35 Ill. Adm Code 615.442. The City alleges that the hydrogeological conditions surrounding the water supply wells is such that there is minimal potential for contamination. The City further states that it "...will solicit the services of a professional engineering firm to oversee the design and construction of the new lagoon and also the closure of the existing lagoon..." and that it will use the best available

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<sup>1</sup> The City's exception petition will be referenced as "Pet. at " and the Agency's motion to dismiss will referenced as "Mot. at ".

controls economically achievable to minimize contamination. (Pet. at 3.) However, the City does not provide any specific design, operational and maintenance plans and states that "[s]pecific design criteria, operating requirements, and costs will be formulated after the Board's response to this petition for exception is received." (Pet. at 3.) The City concludes by stating the following as its basis for the exception:

The Airlite Street plant is landlocked, which prevents adjacent relocation of the lagoon. Water production must continue, which necessitates the lagoon to store the lime residues.

Even though the lime residue is classified as a "special waste," the lagoons receive only the by-products of the water softening reactions at the plant. The residue is primarily non-harmful calcium carbonate, which does not pose a hazard to the potable water supply.

The lime residue is permitted for land application, where it is beneficial, as opposed to wasting valuable landfill space. The lagoon provides the necessary storage space until land application can be completed.

To build a pumping station and a pipeline to send the lime residue to a remote location would pose an unreasonable financial hardship on the City of Elgin. Not only would it be much more costly than reconstruction of the lagoon, but our land application permit specified different methods of spreading the lime residue from the Airlite Street plant. To mix this lime residue with that from another source would require all of it to be land applied with the much more costly method, and this would necessitate an unreasonable increase in costs for many years in the future.

A new lime storage lagoon, properly constructed and operated as per the guidelines in Part 616 under Title 35: Environmental Protection, will not pose any significant threat to the City of Elgin's groundwater supply. The likelihood of contamination of the groundwater will be minimized by a properly constructed and operated lime residue storage lagoon, since the liners will be impervious and prevent migration of any of the lime residue. (Pet. at 4-5.)

The Agency in its motion argues that the Section 14.2 of the Act provides certain criteria for the Board to consider in the evaluation for a request for an exception to the minimum setback requirement. (415 ILCS 5/14.2 (1992).) Those criteria are as

follows:

...that compliance with the setback requirements of this Section would pose an arbitrary and unreasonable hardship upon the petitioner, that the petitioner will utilize the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that the maximum feasible alternative setback will be utilized, and that the location of such potential source or potential route will not constitute a significant hazard to the potable water supply well.

The Agency summarizes the City's facts contained in the petition and concludes that the City is requesting the Board to grant an exception where the City has not provided specific design, operational and maintenance plans for the new facility that is to be located in the water well setback. Therefore, the Agency states that the Board would be in the position of granting an exception pursuant to Section 14.2(c) of the Act without the necessary specific information. Thus, Agency requests the Board to dismiss the petition as being legally insufficient due to the lack of specific.

Alternatively, the Agency requests the Board to issue an order directing the City to supplement its petition with the following information: "(1) describe the source of the contamination; (2) specifically state the technology controls that it will utilize in designing and constructing the source; (3) provide an exact location of the proposed source and the surrounding area that include sufficient information to determine the maximum feasible setback; (4) provide a contingency plan for the provision of an alternative source of potable water; (5) set forth implementation schedule that states proposed construction dates; (6) present the economic factors that will enable a determination that the siting of this impoundment at some other location would pose an economic hardship." (Mot. at 7.) The Agency states that at a minimum the above information is required in order for the petition to be sufficient.

As of the date of this order the City has not filed a response to the Agency's motion. However, the Board denies the Agency motion to dismiss this matter and grants the Agency's alternative request for an order directing the City to supplement its petition with specific information. The City of Elgin shall file a supplemental petition that, at a minimum, contains the following information:

- (1) A description of the source of potential contamination;

(2) A detailed description of the elements of the planned new sludge storage facilities that relate to groundwater protection such as liners, leachate collection system, etc. the description shall include drawings and design specifications;

(3) A detailed site map which, at a minimum, identifies the location of the existing lime residue storage lagoons, the new planned lime residue storage facility, public and private water supply wells in the vicinity of the site; Include sufficient information to determine the maximum feasible setback;

(4) Site hydrogeologic characteristics including, but not limited to groundwater flow rate, groundwater flow direction;

(5) A discussion of the site geologic characteristics supported by Illinois State Geologic Survey's regional geologic investigations or other studies.

(6) Public water supply well monitoring data and/or any other groundwater monitoring data to characterize the groundwater quality in the vicinity of the site; and

(7) An evaluation of technical feasibility and economical reasonableness of compliance alternatives such as relocation of public water supply wells, construction of remote sludge storage facility, etc. to prove that compliance with the setback requirements of Section 14.2(c) of the act would pose an arbitrary and unreasonable hardship. Such an evaluation must include cost estimates of various compliance alternatives. The cost information should include the overall capital cost as well as the annualized capital and operating costs;

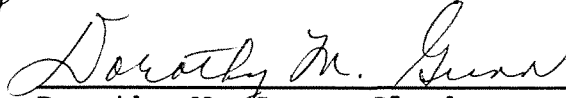
(8) Provide an implementation schedule that states proposed construction dates; and

(9) A contingency plan for the provision of an alternative source of potable water if existing source is contaminated;

Such supplemental petition, or any other appropriate motion, shall be filed with the Clerk of the Board on or before March 10, 1995. Failure to do so will subject this matter to dismissal.

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 11<sup>th</sup> day of January, 1995, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board