

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 1994

SHELL OIL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 94-25  
 ) (Water Well Setback Exception)  
 )  
 COUNTY OF DUPAGE AND )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondents. )

ORDER OF THE BOARD (by C. A. Manning):

Shell Oil Company (Shell) filed a petition seeking a water well setback exception pursuant to Section 14.2(c) of the Act and 35 Ill. Adm. Code 106.601 et seq. on January 13, 1994. On that same day Shell also filed a motion to expedite hearing in this matter. On February 1, 1994 the County of DuPage (County) and the Illinois Environmental Protection Agency (Agency) filed motions instanter in opposition to the motion for expedited hearing and a request for additional time to file their responses to the petition. The Board grants the motions to file instanter.

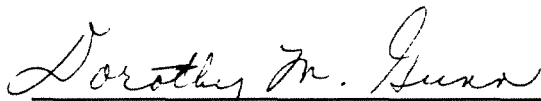
The County argues that granting of the motion to expedite hearings in this matter would prejudice the citizens of the County because service was made upon the County of DuPage, Division of Legal Counsel, instead of the County Board or its agent the County Clerk, and therefore that service was legally insufficient. The County also requests additional time to file its response but does not state a date certain as to when it would file. While the County has requested the Board to deny this matter due to the alleged improper service, the County has filed a general appearance in this motion and has not challenged the Board's jurisdiction in the matter pursuant to 35 Ill. Adm. Code 101.243. In its motion, the Agency states that Shell was aware of this situation and that it has not presented any compelling reason to expedite the matter. Also, the Agency requests an additional seven (7) days to file its response in this matter. The Board agrees that no compelling rationale has been presented for the motion to expedite. It is therefore denied.

Nonetheless, the matter is accepted for hearing and will be assigned to a Hearing Officer immediately. The Board is still required to hold a hearing pursuant to 35 Ill. Adm. Code 102.162 which has specific public notice periods that may not be altered. Based upon good cause shown, the Board grants the Agency's and County's motions for extension to file responses in this matter. Responses are now due to be filed on or before February 10, 1994.

Section 106.603 of the Board's procedural rules provide that within 21 days after the filing of a petition, the Agency and the County, the water well owner, shall file a response to any petition in which it has not joined as co-petitioner. (35 Ill. Adm. Code 106.603(a).) The petitioner may then file a reply within 14 days of the filing of the responses. (35 Ill. Adm. Code. 106.603(b).) The Agency's and County's responses were due on or before February 3, 1994, thus the extension will require the Agency and the County to file on or before February 10, 1994.<sup>1</sup> Shell's reply would be due on or before February 24, 1994. The assigned Hearing Officer shall schedule a hearing at the earliest time in accordance with the above dates and 35 Ill. Adm. Code 102.162 and the hearing shall proceed expeditiously.

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 3<sup>rd</sup> day of February, 1994, by a vote of 7-0.

  
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 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board

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<sup>1</sup> This date is properly calculated from the date the petition was filed with the Board. (35 Ill. Adm. Code 106.603(a).)