

ILLINOIS POLLUTION CONTROL BOARD  
February 27, 1992

VILLAGE OF CHANNAHON, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 91-121  
 ) (Variance)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Anderson):

On February 5, 1992, the Village of Channahon (Village) filed a motion requesting the Board to modify conditions 1, 4 and 6 of the Board's January 23, 1992 Opinion and Order, and that the Village's time for accepting the variance be stayed until the Board rules on the motion. The Illinois Environmental Protection Agency (Agency) has not responded to the Village's motion.

To review, on July 17, 1991, the Village filed a petition for variance, which was later amended on October 4, 1991. On October 7, 1991, the Agency filed an amended variance recommendation recommending that variance be granted for a maximum period of two years from the date of Channahon's amended petition (i.e. until October 1, 1993). In its January 23, 1992 Opinion and Order, granted the Village a variance from 35 Ill. Adm. Code 602.105(a), "Standards for Issuance", and from 35 Ill. Adm. Code 602.106(a), "Restricted Status", as these rules relate to the radium-226 and radium-228 standard of 35 Ill. Adm. Code 611.330(a) and the gross alpha standard of 35 Ill. Adm. Code 611.330(b). The Board granted variance for a maximum period of two years from the date of the Opinion and Order (i.e. until January 23, 1994) because Channahon estimated that it would take anywhere from 12 to 24 months to implement its compliance plan. The Board intended that the first year of the variance will be used to implement the compliance plan and that the second year will be used for the purpose of testing.

As stated above, the Village asks that the Board modify conditions 1, 4, and 6 of the Board's January 23, 1992 Order. Those conditions read as follows:

- (1) This variance shall terminate on the earliest of the following dates:
  - (a) December 1, 1996; or
  - (b) two years following the date on which USEPA either:

- 1) promulgates regulations which amend the maximum contaminant level (MCL) for combined radium, either of the isotopes of radium, or the radium, or the method by which compliance with a radium MCL is demonstrated, or
  - 2) publishes notice that there will be no amendments to the 5 pCi/l combined radium standard or the method for demonstrating compliance with that standard; or
- (c) When analysis pursuant to 35 Ill. Adm. Code 611.720(d), or any compliance demonstration then in effect, shows compliance with the current standard for combined radium and gross alpha particle activity or any standard for combined radium or gross alpha particle activity then in effect.
- (4) Within six months after revision of the USEPA standard from combined radium or after USPEA publication that the standard will be unchanged or 12 months after grant of variance, whichever is applicable pursuant to Condition 1 above, Petitioner shall apply for all permits necessary for the construction of installations, changes or additions to the Petitioner's public water supply needed for achieving compliance with the maximum contaminant level for the standards in question. Such application shall be sent to:
- Illinois Environmental Protection Agency  
Permit Section  
division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276
- (6) Construction allowed on said construction permits shall begin within a reasonable time of bids being accepted, but in any case, construction of all installations, changes, or additions necessary to achieve compliance with the maximum contaminant level in question shall be completed no later than October 1, 1992. One year will be necessary to prove compliance.

The Village also asks that the Board stay the Village's time for accepting the variance during the pendency of the motion to

modify.

In support of its motion, the Village notes that the Agency filed a motion to correct clerical errors on November 12, 1991. In that document, the Agency recommended that the Village be granted a variance for a maximum period of five years (i.e., until December 1, 1996) rather than two years. The Village also asserts that it take 12 to 24 months to implement its compliance plan in addition to the Board's requisite 12 month testing period. As to condition 4, the Village notes that the Agency, in its motion to correct clerical errors, recommended that the time for the Village's permit application be extended to 24 months after the issuance of the variance. As to condition 6, the Village argues the October 1, 1992 date contained therein was a clerical error even though the Agency did not correct the date in its motion to correct clerical errors. The Village asks that "paragraph 6, line 6 on page 12 [of the Board's January 23, 1992 Order] be amended to change October 1, 1992 to February 23, 1995 (requiring completion of construction 12 months prior to variance termination to permit sampling)". (Motion to Modify p. 5). Finally, the Village notes that failure of the Board to modify its Order will result in an unreasonable or arbitrary hardship on the Village in that it will be required to immediately begin design, engineering, and bid documents, the need for all of which could be obviated by pending USEPA action.

In light of the recommendation that is contained in the Agency's November 12, 1991 motion to correct clerical errors and that the Village's assertion that it take 12 to 24 months to implement its compliance plan in addition to the requisite 12 month testing period, the Board hereby grants the Village's motion to modify conditions the Board's January 23, 1992 Order with one exception. Although the Village asks that the October 1, 1992 date in condition 6 be changed to February 23, 1995, we note that the February 23, 1995 date does not allow for a full 12 month sampling period. Accordingly, the Board will insert the date of December 1, 1995 into condition 6. The accompanying Order contains the entirety of the January 23, 1992 Order, with the modifications discussed above, and is intended to supersede our previous Order.

#### ORDER

The Village of Channahon is hereby granted a variance from 35 Ill. Adm. Code 602.105(a), "Standards for Issuance", and 602.106(a), "Restricted Status", as they relate to the standard for combined radium and gross alpha particle activity as set forth in 35 Ill. Adm. Code 611.330(a) and 611.330(b), respectively, subject to the following conditions:

- (1) This variance shall terminate on the earliest of the following dates:

- (a) December 1, 1996; or
  - (b) two years following the date on which USEPA either:
    - 1) promulgates regulations which amend the maximum contaminant level (MCL) for combined radium, either of the isotopes of radium, or the radium, or the method by which compliance with a radium MCL is demonstrated, or
    - 2) publishes notice that there will be no amendments to the 5 pCi/l combined radium standard or the method for demonstrating compliance with that standard; or
  - (c) When analysis pursuant to 35 Ill. Adm. Code 611.720(d), or any compliance demonstration then in effect, shows compliance with the current standard for combined radium and gross alpha particle activity or any standard for combined radium or gross alpha particle activity then in effect.
- (2) Compliance shall be achieved with the maximum contaminant level for combined radium and gross alpha particle activity, or with any revised standard for combined radium or gross alpha particle activity then in effect, no later than the date on which this variance terminates.
  - (3) In consultation with the Illinois Environmental Protection Agency ("Agency"), Petitioner shall continue its sampling program to determine as accurately as possible the level of combined radium and gross alpha particle activity in its wells and finished water. Until this variance terminates, Petitioner shall collect quarterly samples of its water from entry points of its distribution system at locations approved by the Agency. Petitioner shall composite the quarterly samples from each location separately and shall analyze them annually by a laboratory certified by the State of Illinois for radiological analysis so as to determine the maximum contaminant level of combined radium and gross alpha particle activity. The results of the analyses shall be reported within 30 days of receipt of the most recent result to:

Illinois Environmental Protection Agency  
Compliance Assurance Section  
Division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

At the option of Petitioner, the quarterly samples may be analyzed when collected. The running average of the most recent four quarterly sample results shall be reported to the above address within 30 days of receipt of the most recent quarterly sample.

- (4) Within six months after revision of the USEPA standard from combined radium or after USPEA publication that the standard will be unchanged or 24 months after grant of variance, whichever is applicable pursuant to Condition 1 above, Petitioner shall apply for all permits necessary for the construction of installations, changes or additions to the Petitioner's public water supply needed for achieving compliance with the maximum contaminant level for the standards in question. Such application shall be sent to:

Illinois Environmental Protection Agency  
Permit Section  
division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

- (5) Within three months of USPEA action after each construction permit is issued by the Illinois Environmental Protection Agency, Petitioner shall advertise for bids, to be submitted within 60 days,, from contractors to do the necessary work described in the construction permit. The Petitioner shall accept appropriate bids within a reasonable time. Petitioner shall notify the agency within 30 days of ache of the following actions: a) advertisements for bids, 2) names of successful bidders, and 3) whether Petitioner accepted the bids. Such notification shall be sent to:

Illinois Environmental Protection Agency  
Permit Section  
Division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

- (6) Construction allowed on said construction permits shall begin within a reasonable time of bids being accepted, but in any case, construction of all installations, changes, or additions necessary to achieve compliance

with the maximum contaminant level in question shall be completed no later than December 1, 1995. One year will be necessary to prove compliance.

- (7) Pursuant to 35 Ill. Adm. Code 611.851(b), in its first set of water bills or within three months after the date of this Order, whichever occurs first, and every three months thereafter, Petitioner will send to each user of its public water supply a written notice to the effect that Petitioner has been granted by the Pollution Control Board a variance from 35 Ill. Adm. Code 602.105(a) Standards of Issuance and 35 Ill. Adm. Code 602.106(a) Restricted Status, as they relate to the maximum contaminant level for combined radium and gross alpha particle activity.
- (8) Pursuant to 35 Ill. Adm. Code 611.851(b), in its first set of water bills or within three months after the date of this Order, whichever occurs first, and every three months thereafter, Petitioner will send to each user of its public water supply a written notice to the effect that Petitioner is not in compliance with the maximum contaminant level for combined radium and gross alpha particle activity. The notice shall state the average content of the contaminants in question in samples taken since the last notice period during which samples were taken and shall include the mandatory health effects language as specified in 35 Ill. Adm. Code 611.Appendix A1.
- (9) Until full compliance is achieved, Petitioner shall take all reasonable measures with its existing equipment to minimize the maximum contaminant level of combined radium and gross alpha particle activity in its finished drinking water.
- (10) Petitioner shall provide written progress reports to the Agency at the address below every six months concerning steps taken to comply with conditions 1 through 7 of this Order. Progress reports shall quote each of said paragraphs and immediately below each paragraph state what steps have been taken to comply with each paragraph:

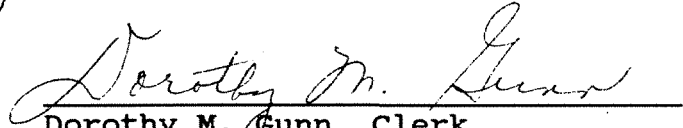
Illinois Environmental Protection Agency  
Division of Public Water Supply  
Field Operations Section  
2200 Churchill Road  
Springfield, Illinois 62794-9276

IT IS SO ORDERED.

Board Member B. Forcade dissented.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111½ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 27<sup>th</sup> day of February, 1992, by a vote of 6-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board