

ILLINOIS POLLUTION CONTROL BOARD
June 20, 1991

STATE OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 90-102
)	(Water Well Setback
)	Exception)
)	
DR. AND MRS. JAMES KRONE and)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondents.)	

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

On April 22, 1991, State Oil Company filed a motion for leave to file an affidavit. As no response was filed to this motion, it was granted by the Board's Order of May 9, 1991.

The gist of the affidavit is that, subsequent to hearing, the drinking water well on the Krone's property which was the subject of discussion at hearing had been plugged and replaced by a new, 130 feet deep well with a steel casing.

Presently before the Board for resolution is a June 6, 1991 Agency motion to file a response to this affidavit instanter, and a June 10, 1991 objection to the response by State Oil. State Oil objects to the Agency response essentially on the grounds that the Agency is attempting to reargue, and to introduce evidence concerning, issues which were presented, or should have been presented, at hearing.

The Board agrees with State Oil's characterization of the response. One of State Oil's specific objections--lack of opportunity to cross-examine concerning additional evidence contained in the response--could be cured by setting this matter for an additional hearing. However, the Board notes its February 7, 1991 Order granting a request for expedited decision to avoid any need to remove existing underground gasoline storage tanks from the site (as requested by the State Fire Marshal) prior to resolution of this action. Under these circumstances, the Board will not further delay decision by setting an additional hearing. The Agency motion for leave to file is hereby denied.

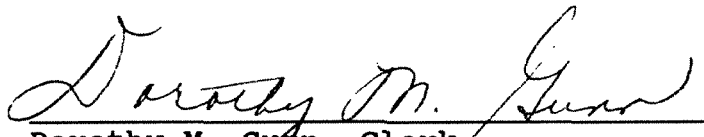
The Board further notes that, in addition to State Oil's April

22, 1991 affidavit, the record contains an unverified letter filed on behalf of the Krones on January 31, 1991 which also relates that a new well has been dug. However, neither document states where the new well is in relation to the old well which was the subject of testimony at hearing, so that it is impossible to determine whether this petition for exception to the Section 14(c) 200 feet setback requirement is now moot.

The parties are directed to address this issue in filings (supported by affidavit as necessary) to be received by the Board on July 9, 1991. The Board would presently anticipate deciding this matter on July 25 or August 8, 1991.

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 20th day of June, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board