

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1990

VILLAGE OF PLAINFIELD, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 90-162  
 ) (Variance)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by R.C. Flemal):

On November 29, 1990 the Board granted the Village of Plainfield's ("Plainfield") request for variance from 35 Ill. Adm. Code 602.105(a), "Standards for Issuance", and 602.106(b), "Restricted Status", as related to the 5.0 pCi/l combined radium-226 and radium-228 standard of 35 Ill. Adm. Code.Subtitle F. However, the Board has subsequently observed that Plainfield's request that the Board find the improvements to be constructed by Plainfield to be water treatment facilities as described in Ill. Rev. Stat. 1989, Chapter 24, Section 8-4-1(13) was inadvertently overlooked in the November 29, 1989 Opinion and Order.

Section 8-4-1(13) reads, in pertinent part:

8-4-1. No bonds shall be issued by corporate authorities of any municipality until the question of authorizing such bonds has been submitted to the electors of that municipality, and approved by a majority of the electors voting upon that question... However, without the submission of the question of issuing bonds to the electors except as required under paragraph (13), the corporate authorities of any municipality may authorize the issuance of any of the following bonds:...

(13) Bonds to finance the cost of the acquisition, construction or improvement of water or wastewater treatment facilities mandated by an enforceable compliance schedule developed in connection with the federal Clean Water Act or a compliance order issued by the United States Environmental Protection Agency or the Illinois Pollution Control Board;...

Inasmuch as the construction and equipment which Plainfield will be obligated to perform and install under the conditions imposed by the Board's Order clearly fall under the terms of

Section 8-4-1(13), the Board will reissue the November 29, 1990 Order with the addition of Condition (L), which specifies this Board finding. Today's reissuance of the Order notwithstanding, the date of grant of variance continues to be November 29, 1990.

ORDER

Petitioner, Village of Plainfield, is hereby granted variance from 35 Ill. Adm. Code 602.105(a), Standards of Issuance, and 602.106(b), Restricted Status, as they relate to the standard for radium in drinking water of 35 Ill. Adm. Code.Subtitle F, subject to the following conditions:

- (A) For the purposes of this Order, the date of USEPA action shall consist of the earlier of the:
  - (1) Effective date on any regulation promulgated by the U.S. Environmental Protection Agency ("USEPA") which amends the maximum concentration level for combined radium, either of the isotopes of radium, or the method by which compliance with a radium maximum concentration level is demonstrated; or
  - (2) Date of publication of notice by the USEPA that no amendments to the 5 pCi/l combined radium standard or the method for demonstrating compliance with the 5 pCi/l standard will be promulgated.
- (B) Variance shall terminate on the earliest of the following dates:
  - (1) When analysis pursuant to 35 Ill. Adm. Code 611.731(a), or any compliance demonstration method then in effect, shows compliance with any standards for radium in drinking water then in effect;
  - (2) Two years following the date of USEPA action; or
  - (3) November 29, 1995.
- (C) Compliance shall be achieved with any standards for radium then in effect no later than the date on which this variance terminates.
- (D) In consultation with the Illinois Environmental Protection Agency ("Agency"), Petitioner shall continue its sampling program to determine as accurately as possible the level of radioactivity in its wells and finished water. Until this variance terminates, Petitioner shall collect quarterly samples of water from its distribution system at locations approved by the Agency. Petitioner shall composite the quarterly

samples for each location separately and shall have them analyzed annually by a laboratory certified by the State of Illinois for radiological analysis so as to determine the concentration of radium-226 and radium-228. At the option of Petitioner the quarterly samples may be analyzed when collected. 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

- (E) Within three months of USEPA action or within 27 months of grant of this variance, whichever occurs first, Petitioner shall apply to the Agency at the address below for all permits necessary for construction of installations, changes, or additions to Petitioner's public water supply needed for achieving compliance with the maximum allowable concentration for combined radium, or with any standards for radium in drinking water then in effect:

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

- (F) Within three months after each construction permit is issued by the Agency, Petitioner shall advertise for bids, to be submitted within 60 days, from contractors to do the necessary work described in the construction permit. Petitioner shall accept appropriate bids within a reasonable time. Petitioner shall notify the Agency at the address in condition (D) of each of the following actions: 1) advertisement for bids, 2) names of successful bidders, and 3) whether Petitioner accepted the bids.
- (G) 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 allowable concentration of combined radium, or with any standards for radium in drinking water then in effect, shall begin no later than 6 months after USEPA action. If there is no USEPA action within two years of grant of this variance, Petitioner shall begin construction no later than three years after grant of this variance.

- (H) 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 shall 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(b) Restricted Status, as they relate to the radium standard.
- (I) 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 grant of variance, whichever occurs first, and every three months thereafter, Petitioner shall send to each user of its public water supply a written notice to the effect that Petitioner is not in compliance with standard for radium. The notice shall state the average content of radium in samples taken since the last notice period during which samples were taken.
- (J) Until full compliance is achieved, Petitioner shall take all reasonable measures with its existing equipment to minimize the level of combined radium, radium-226, and radium-228 in its finished drinking water.
- (K) Petitioner shall provide written progress reports to the Agency at the address below every six months concerning steps taken to comply with paragraphs B-J. 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.

- (L) The Board hereby states that the acquisition, construction, and improvements to be made under the compliance plan that is a condition of the grant of this variance involve costs as presented in Ill. Rev. Stat. 1989, Chapter 24, Section 8-4-1(13).

Within 45 days of the date of this Order, Petitioner shall execute and forward to Stephen C. Ewart, Division of Legal Counsel, Illinois Environmental Protection Agency, 2200 Churchill Road, Post Office Box 19276, Springfield, Illinois 62794-9276, a Certification of Acceptance and Agreement to be bound to all

terms and conditions of this variance. The 45-day period shall be held in abeyance during any period that this matter is being appealed. Failure to execute and forward the Certificate within 45 days renders this variance void and of no force and effect as a shield against enforcement of rules from which variance was granted. The form of said Certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_,  
hereby accept and agree to be bound by all terms and conditions  
of the Order of the Pollution Control Board in PCB 90-162  
December 20, 1990.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Title

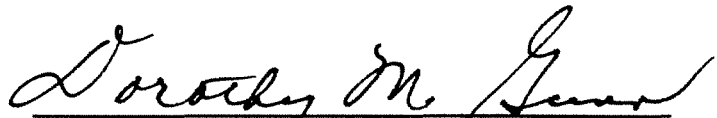
\_\_\_\_\_  
Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989 ch. 111 ½ 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.

IT IS SO ORDERED.

Board Members J.D. Dumelle and B. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 20<sup>th</sup> day of December, 1990, by a vote of 5-2.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board