

ILLINOIS POLLUTION CONTROL BOARD
November 17, 1988

VILLAGE OF SUGAR GROVE,)
)
 Petitioner,)
)
 v.) PCB 88-147
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On November 7, 1988, the Illinois Environmental Protection Agency ("Agency") filed a Motion To Dismiss the petition for variance filed by the Village of Sugar Grove ("Sugar Grove"). Sugar Grove filed a response to the Agency's motion on November 15, 1988, together with a second amendment to the petition. The latter recites new facts not previously presented to the Board and is accepted for filing.

Sugar Grove filed its petition on September 9, 1988. In that petition, Sugar Grove sought a variance for five years from the restricted status provisions of 35 Ill. Adm. Code 602.105(a) and 602.106(b) as they pertain to radium. Sugar Grove indicated that it intends to blend waters from two wells so as to achieve compliance with the radium standards "as the short term solution". During the period of any variance, Sugar Grove would also explore other compliance options.

On September 22, 1988, the Board issued an Order requesting that Sugar Grove explain "why five years are necessary to implement the compliance option of blending".

On October 28, 1988, Sugar Grove filed its response to the Board's request. Petitioner contends that its economic condition precludes the near-term expenditure of the sums necessary to implement blending. More particularly, Sugar Grove states that it is in negotiations with various developers, which it anticipates will culminate in agreements under which the developers will essentially bear the cost of installing the needed water lines and blending equipment. Sugar Grove asserts that:

"it appears that within the five year period the entire 10,300 feet length of main and the storage tank and booster pump can be installed at little or no cash cost to the Petitioner".

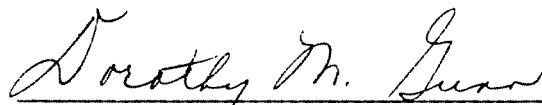
The Agency's motion to dismiss notes that 35 Ill. Adm. Code 104.121 requires that the Petitioner provide a detailed description of the proposed method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation. The Agency asserts and Sugar Grove denies that Sugar Grove's petition, as augmented by its response of October 28, fails to meet the requirements of that rule. The Board agrees with the Agency.

However, without going to the merits, it appears to the Board that with the filing of the second amendment to its petition, Sugar Grove has responded to the Board's September 22, 1988 Order. This change in circumstance in any event requires the denial of the Agency's Motion to Dismiss as moot; the Agency may, of course, file a new Motion to Dismiss or other response to the amended petition.

For the reasons stated above, the Agency's Motion To Dismiss is denied.

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 17th day of November, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board