

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1981

VILLAGE OF CARY,)
)
) Petitioner,)
)
) v.) PCB 77-339
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

SUPPLEMENTAL ORDER OF THE BOARD (by J. Anderson):


On February 13, 1981 the Illinois Appellate Court for the Second District issued its mandate and remanded this action to the Board for further proceedings consistent with its Opinion in Village of Cary v. Pollution Control Board and Illinois Environmental Protection Agency, No. 79-314 Ill.App.3d ___, N.E.2d ___ (April 1, 1980). The Board reminds petitioner that, since entry of the Board's first Opinion and Order, 29 PCB 383 (March 16, 1978), and its Supplemental Opinion and Order, 33 PCB 557 (May 24, 1979), Illinois has received primary enforcement responsibility under the Safe Drinking Water Act (SDWA), 42 USC §300 et seq. Illinois must therefore have drinking water regulations which are no less stringent than the Federal regulations, and may not issue exemptions or variances from these regulations except in conformity with the SDWA. Section 1416 of the SDWA has recently been amended by P.L. 96-502. States with primary enforcement responsibility may now issue "exemptions" from the federal requirements generally until January 1, 1984, but until January 1, 1986 if a water supply has a "binding commitment" to become part of a "regional water supply."

Since Illinois' receipt of primary SDWA enforcement responsibility, the Board has granted several variances from its standards for parameters such as barium, particularly where treatment technologies specifically applicable to small systems have not been formally identified by USEPA as being "generally available (taking costs into consideration)" [e.g. Village of Altona v. IEPA, PCB 80-74 (July 10, 1980) and Village of Hampshire v. IEPA, PCB 80-165 (January 22, 1981)]. While the mandate of the Appellate Court has given the petitioner the right to present additional evidence at hearing, petitioner retains its option of waiving hearing pursuant to Procedural Rule 401(b), to have this matter reconsidered by the Board on the pleadings.

As the last hearing in this matter was held March 1, 1979, the record in this case is somewhat stale, and must be supplemented with current information no matter which option is chosen. Petitioner is therefore directed to file an amended petition satisfying the requirements of Procedural Rule 401, taking care to submit an affidavit verifying the truth of the matters asserted if hearing is waived. The 90-day decision period shall commence on the filing of the amended petition.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Supplemental Order was adopted on the 5th day of March, 1981 by a vote of S.O.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board