

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1997

TRI STAR MARKETING, INC.,)	
)	
Petitioner,)	
)	PCB 97-199
v.)	(Water Well Setback Exception)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Yi):

On May 12, 1997 the Board received from Tri Star Marketing, Inc. a Petition for a Water Well Setback Exception concerning two public water supply wells owned by the City of Byron on a site in Ogle County. On May 15, 1997 the Board found the petition to be deficient because it failed to contain proof of service of the petition on the owner of the well, as specifically required by Section 14.2(c) of the Environmental Protection Act and 35 Ill. Adm. Code 106.602(c). Furthermore the Board stated that the "inclusion of the affidavit of Kerry S. Gifford does not satisfy this requirement". The Board ordered petitioner to file an amended petition within 45 days of the date of the order. Therefore, petitioner was required to file an amended petition on or before June 29, 1997.

On June 2, 1997, the Illinois Environmental Protection Agency (Agency) filed a motion to dismiss the petition as being deficient. The Agency claims that the petition is deficient as follows:

- a. Did not provide proof that a copy of the petition was mailed to the well owner that would be affected by the exception.
- b. Petitioner did not discuss the potential impacts of the potential source on groundwater in general, and the affected wells in particular. Wells, #1 and #2, have had a history of trichloroethylene and radium contamination. The wells are currently on standby status and it is the intent of the Director of Water and Wastewater Operations for the City of Byron to convert these wells to inactive status beginning July 1997. Inactive wells are considered to be potential routes of contamination.
- c. Petitioner has not provided a description of the geologic materials that are in the area of the wells and the proposed UST's.
- d. Did not provide information of future use of Wells #1 and #2.

- e. Petitioner did not present adequate proof to ensure that no injury to the public or the environment would occur.

The Agency requests the Board to dismiss the petition, or in the alternative, order petitioner to provide the information requested in the motion.

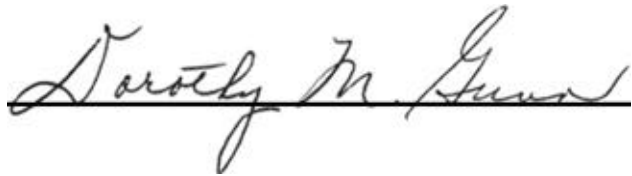
On June 30, 1997, the Board received a motion for an extension of time to file an amended petition from petitioner. Petitioner states that it has submitted information to the Agency for review to determine if the information satisfies the Agency's needs and requests more time to discuss the matter with the Agency. Petitioner fails to state the duration of its requested extension and does not indicate when it believes it will file an amended petition. The petitioner does not address whether the information submitted to the Agency will also address the Board's order of May 15, 1997.

On July 8, 1997 the Agency filed a response to petitioner's motion that states that it concurs with petitioner's request for an extension. The Agency also states that it agrees that no prejudice will occur if the petitioner's motion is granted.

The Board will grant petitioner an extension of time until August 15, 1997 to file an amended petition that supplies the information which was deemed missing by the Board in its May 15, 1997 order. Failure of the petitioner to file an amended petition on or before August 15, 1997 will subject this matter to dismissal. The Board also directs petitioner to file a response to the Agency's motion to dismiss on or before August 15, 1997.

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 10th day of July, 1997, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board