

ILLINOIS POLLUTION CONTROL BOARD
April 11, 1991

LAKE COUNTY PUBLIC WORKS DEPARTMENT,)	
WILDWOOD SUBDIVISION WATER SUPPLY)	
SYSTEM,)	
)	
Petitioner,)	
)	
v.)	PCB 87-107
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

This matter is before the Board on petitioner Lake County Public Works Department's (County) March 20, 1991 motion to amend internal variance deadlines. Respondent Illinois Environmental Protection Agency (Agency) filed its response to the motion on April 1, 1991.

On April 7, 1988, this Board granted the County a five-year variance from restricted status for combined radium-226 and radium-228. The Board's order provided for a two-step compliance plan. First, the County was to construct two new shallow wells for a blending program with water from existing deep wells. Second, the County was directed to continue its participation in the Central Lake County Joint Action Water Agency (JAWA) for the purpose of delivering Lake Michigan water to the Wildwood subdivision water system (the subject of this variance) by 1995. Condition 6 of the variance order stated:

Construction allowed on said construction permits [for shallow wells and associated improvements] 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 standard for combined radium shall begin no later than two years from the grant of this variance [April 7, 1990] and shall be completed no later than three years from the grant of this variance [April 7, 1991].

Condition 7 stated that failure to meet any of the dates in paragraphs 4, 5 and 6 would result in termination of this variance.

In its motion to amend internal deadlines, the County asks that the Board modify the existing variance so that the variance does not expire on April 7, 1991 pursuant to Condition 7. The County states that has completed the first step of the compliance

plan (the blending aspect), but that this portion was unsuccessful. The County states that construction of the shallow blending wells turned up only dry wells, despite the efforts of its engineers. Therefore, the County states that it will not be in compliance with the combined radium standard within three years of the grant of variance, "as provided in paragraph 6" of the Board's variance order. The County notes that it has met all requirements of Conditions 4 and 5. The County also contends that it has proceeded with its membership in JAWA, and that it anticipates that Lake Michigan water will be available to Wildwood by mid-1992. Thus, the County anticipates that the Wildwood system will be in compliance with the combined radium standard before the April 7, 1993 expiration of this variance.

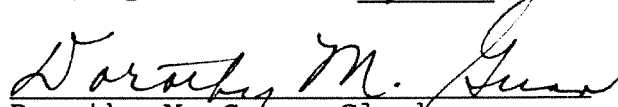
In its response, the Agency notes that the County has spent \$124,540 in efforts to comply with both phases of the Board's order, and that the County has been making efforts towards compliance with the standard. The Agency believes that if the County's motion is denied, the County will suffer arbitrary or unreasonable hardship. Therefore, the Agency requests that the Board grant the County's requested relief.

After reading the April 7, 1988 order carefully, the Board believes that the County and the Agency have misread Condition 6. Condition 6 requires only that the County complete construction on the phase I blending program by April 7, 1991. Although the condition might be vaguely worded, there is no requirement that the County actually be in compliance with the combined radium standard. If the condition had actually required compliance with the standard by April 7, 1991, there would have been no reason for the Board to grant variance until April 7, 1993. The Board will not require the County to proceed with construction of any improvements associated with the blending program, since the wells are dry. Therefore, the Board finds that the County is in compliance with Condition 6 of its variance. The Board cautions the County that the Board expects the County to continue to proceed with its efforts to obtain Lake Michigan water as quickly as possible. Because the Board finds that the County is in compliance with Condition 6, the Board denies the County's motion as unnecessary.

IT IS SO ORDERED.

J.D. Dumelle and B. Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 11th day of April, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board