

ILLINOIS POLLUTION CONTROL BOARD

December 16, 2004

PAUL JOHNSON INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 05-109
)	(Water Well Setback Exception)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY and CITY OF)	
WATERMAN, ILLINOIS,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J.P. Novak):

On December 10, 2004, petitioner Paul Johnson Inc. (PJI) filed a petition for a water well setback exception to enable it to lawfully use “direct push” technology for in-situ remediation of hydrocarbon contamination of the shallow aquifer at the site of its former truck leasing and fueling operation in Waterman, De Kalb County. Pet. at 9. The petition identifies the owner of the only affected water well as the City of Waterman, and states that the affected well is a community water supply well. Pet. at 1. The petition also states “the parties request a hearing on this petition as soon as the Board can reasonably schedule it.” Pet. at 11.

Pursuant to Section 14.2(c) of the Environmental Protection Act (Act), As a “new potential source or route” of contamination, PJI must file a petition with the Board and the Agency seeking an exception to the minimum 200-foot setback requirements applicable to a community water supply. 415 ILCS 5/14.2(c) (2002). PJI’s petition meets the content requirements of 35 Ill. Adm. Code 106.304 and Section 14.2 of the Act. 415 ILCS 5/14.2 (2002). The Board accepts this petition for hearing.

PJI has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 106.310. The respondents, the Illinois Environmental Protection Agency and the City of Waterman, may file responses on or before January 3, 2005, the 21st business day after the petition’s filing. PJI may file a reply within 14 days. 35 Ill. Adm. Code 106.306. The Board will hold at least one hearing in an exception proceeding and the hearing officer will schedule the hearing. 35 Ill. Adm. Code 106.308. The Board will grant an exception where the petitioner has presented adequate proof:

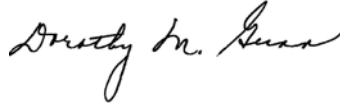
[T]hat compliance with the setback requirements of this Section would pose an arbitrary and unreasonable hardship upon the petitioner, that the petitioner will utilize the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that the maximum feasible alternative setback will be utilized, and that the location of

such potential source or potential route will not constitute a significant hazard to the potable water supply well. 415 ILCS 5/14.2(c) (2002).

The Board grants the parties' request for expedited hearing. The assigned hearing officer must contact the parties promptly to set the matter for hearing in accordance with the requirements of the Act and the Board's procedural rules. The Board directs that this matter proceed to hearing as expeditiously as is practicable. For its part, the Board will render its decision as soon thereafter as it reasonably can, consistent with the Board's workload and budgetary constraints.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 16, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board