

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1989

UNITED CITY OF THE)
VILLAGE OF YORKVILLE,)
)
Petitioner,)
)
v.) PCB 89-84
) (Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

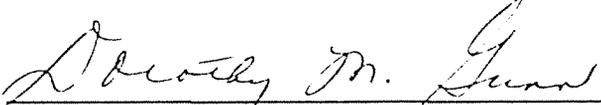
DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority opinion because I do not believe that Yorkville has shown arbitrary or unreasonable hardship to justify any grant of variance. As the majority notes, Yorkville was first notified that its water exceeded radium standards in January of 1984. The developer of the subdivision referred to in Yorkville's motion for expedited decision either knew or should have known that Yorkville was on restricted status, and apparently decided to take the risk that Yorkville would have a variance when the subdivision was ready to connect to the water mains. Simply because this gamble failed does not, in my mind, impose an arbitrary or unreasonable hardship. I am also concerned that the majority is setting a disturbing precedent by granting a variance, however short, without ordering Yorkville to either commit to a compliance plan or to achieve compliance by the end of the variance period. I would have continued in the direction started by the majority when they denied Yorkville's request for a three year variance extension, and denied any variance at all.



J. Theodore Meyer
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 15th day of September, 1989.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board