

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 2014

ASCEND R.L.B., an Illinois corporation, )  
)  
Petitioner, )  
)  
v. ) PCB 14-122  
) (Water Well Setback Exception)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY and JOHN AND )  
VERA TIERNEY, )  
)  
Respondents. )

ORDER OF THE BOARD (by J.D. O’Leary):

On March 27, 2014, Ascend R.L.B. (Ascend) filed a petition (Pet.) requesting an exception from the water well setback requirement at Section 14.2(a) of the Environmental Protection Act (Act). Pet. at 1 (¶1), citing 415 ILCS 5/14.2(a), (c) (2012).

Ascend proposes to build a small commercial center on property it owns at 36650, 36660, and 36674 N. Bernice Drive, Lake Villa, Lake County (site). The proposed construction includes a septic system serving only the commercial center. Pet. at 1 (¶2). Ascend states that the proposed septic system is an at-grade aerobic mound system, which is considered a Class V injection well. Pet at 3, 4 (¶¶11, 12); *see* 35 Ill. Adm. Code 704.281(i) (Examples of Class V Injection Wells). As an injection well, the proposed septic system would be a “new potential route.” Pet., Exh. C (Illinois Environmental Protection Agency concurrence); *see* 415 ILCS 5/3.350 (defining “new potential route”). Ascend explains that an adjoining property to the north contains a residential potable water well located approximately 130 feet at its closest from the perimeter of the proposed septic system. Pet. at 1 (¶3); *see* Exh. A (site map).

Section 14.2(a) of the Act prohibits placement of a “new potential route” within 200 feet of a well supplying potable water except under specified conditions. 415 ILCS 5/14.2(a) (2012). Ascend requests that the Board grant a setback exception pursuant to Section 14.2(c) of the Act. Pet. at 2 (¶¶8, 9), Exh. E; *see* 415 ILCS 14.2(c) (2012). In order for the Board to grant such an exception, a petitioner must provide adequate proof to allow the Board to find that compliance with the statutory setback would pose an arbitrary and unreasonable hardship upon the petitioner; the petitioner will use the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well; the maximum feasible alternative setback will be used; and the potential route will not constitute a significant hazard to the potable water supply well. 415 ILCS 5/14.2(c) (2012); 35 Ill. Adm. Code 106.310 (Burden of Proof).

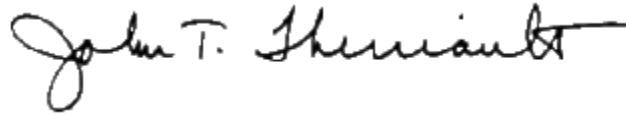
On July 15, 2014, Ascend filed a Notice of Withdrawal of the Petition for Water Well Setback Exception (Notice). The notice states that the response to the adjoining owner’s

response to the petition and the Board's request for information regarding the factors it must address under Section 14.2 of the Act "are voluminous and require considerable additional expense for a 500 gallon septic system on a 1 acre, which is not justifiable at this time given the value of the property." Notice at 1. The notice states that "Ascend seeks to withdraw the petition without prejudice to filing a future petition when circumstances warrant." *Id.* at 2.

The Board construes the notice as a motion to withdraw the petition filed on March 27, 2014. The Board grants the motion and closes this docket. In the event that Ascend subsequently files a petition for a setback exception, the Board would docket it under a new case number.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 24, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

---

John T. Therriault, Clerk  
Illinois Pollution Control Board