

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
DEC 3 2003
STATE OF ILLINOIS
Pollution Control Board

McLean County School District No 5,)
)
Petitioner,)
)
vs.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY, and)
THE TOWN OF NORMAL, ILLINOIS,)
)
Respondents.)

PCB No. 04-64

NOTICE OF FILING

To: Division of Legal Counsel
IEPA
1021 N. Grand Ave. East
PO Box 19276
Springfield, IL 62794-9276

Carol Sudman, Hearing Officer
Illinois Pollution Control Board
P.O. Box 19274
Springfield, IL 62794-9274

Steven D. Mahrt
Corporation Counsel
Town of Normal
100 East Phoenix Avenue
P.O. Box 589
Normal, IL 61761

Mayor Chris Koos
Town of Normal
100 E. Phoenix Ave.
P.O. Box 589
Normal, IL 61761-0589

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board an original and nine of the Motion for Voluntary Dismissal, a copy of which is herewith served upon you.

Respectfully submitted,

McLean County School District No 5, Petitioner

By: *Diana M. Jagiella*
Diana M. Jagiella, Attorney for Petitioner

Date: December 1, 2003

Diana M. Jagiella
Howard & Howard Attorneys, P.C.
One Technology Plaza, Suite 600
211 Fulton Street
Peoria, IL 61602-1350
(309) 672-1483 Phone
(309) 672-1568 Fax

CERTIFICATE OF SERVICE

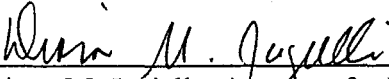
I, the undersigned, certify that I have served the attached *Notice of Filing* on this 1st day of December, 2003, via U.S. Mail, postage fully prepaid, upon the following persons:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P. O. Box 19276
Springfield, IL 62794-9276

Mayor Chris Koos
Town of Normal
100 E. Phoenix Ave.
P.O. Box 589
Normal, IL 61761-0589

Carol Sudman, Hearing Officer
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Town of Normal
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Normal, IL 61761



Diana M. Jagiella, Attorney for Petitioner

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
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DEC 3 2003
STATE OF ILLINOIS
Pollution Control Board

MCLEAN COUNTY SCHOOL DISTRICT)
NO 5,)
)
Petitioner,)
)
vs.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY, and)
THE TOWN OF NORMAL, ILLINOIS,)
)
Respondents)

PCB No. 04-64
(Water Well Setback Exception)

MOTION FOR VOLUNTARY DISMISSAL

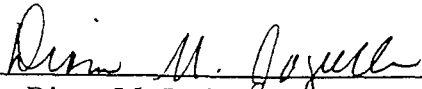
NOW COMES the Petitioner, MCLEAN COUNTY SCHOOL DISTRICT NO. 5, by and through its attorneys, HOWARD & HOWARD ATTORNEYS, P.C., and moves to dismiss its Petition for Exception to Setback Requirements pursuant to 415 ILCS 5/14.2, and in support of its motion states as follows:

1. The Illinois Environmental Protection Agency ("IEPA") approved Petitioner's High Priority Corrective Action Plan including Class V injection wells for treatment, subject to obtaining an Exception for the wells given their location within the setback zones of Normal water wells.
2. IEPA has removed from their approval the necessity for an Exception as reflected in the attached letter. IEPA has determined the injection wells are not prohibited within the maximum setback zones of wells #9 and #10 at 900 Kern Street, Normal, McLean County, Illinois.
3. Based on IEPA's letters, Petitioner requests voluntary dismissal of its Petition for Exception.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Respectfully submitted,

McLean County School District No 5, Petitioner

By: 
Diana M. Jagiella, Attorney for Petitioner

Date: December 1, 2003

Diana M. Jagiella
Howard & Howard Attorneys, P.C.
One Technology Plaza, Suite 600
211 Fulton Street
Peoria, IL 61602-1350
(309) 672-1483 / (309) 672-1568 Fax

CERTIFICATE OF SERVICE

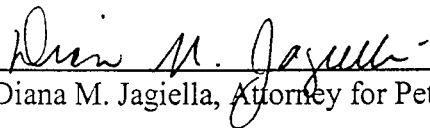
I, the undersigned, certify that I have served the attached *Motion for Voluntary Dismissal* on this 1st day of December, 2003, via U.S. Mail, postage fully prepaid, upon the following persons:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P. O. Box 19276
Springfield, IL 62794-9276

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Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274



Diana M. Jagiella, Attorney for Petitioner



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

Division of Legal Counsel
217/782-5544
Telefax # 217/782-9807
TDD # 217/782-9143
E-mail: john.kim@epa.state.il.us

November 12, 2003

Diana M. Jagiella
Howard & Howard Attorneys, P.C.
One Technology Plaza, Suite 600
211 Fulton Street
Peoria, Illinois 61602-1350

RE: McLean County School District No. 5 v. Illinois EPA and Town of Normal
PCB No. 04-64

Dear Ms. Jagiella:

It is my understanding you have had some conversations with Lynn Dunaway of the Illinois Environmental Protection Agency's ("Illinois EPA") Bureau of Water, Groundwater Section, regarding the above-referenced matter. As you know, McLean County School District No. 5 ("the school district") initiated an action before the Illinois Pollution Control Board ("Board") seeking an exception to the minimum setback zone as allowed for in Section 14.2 of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/14.2). Based on those discussions, the Illinois EPA asks that the school district file a motion for voluntary dismissal of the action as the relief sought is not necessary.

Minimum setback zones of 400 feet have been established pursuant to Section 14.2(d) of the Act (415 ILCS 5/14.2(d)) for Normal community wells #9 and #10, Illinois EPA # 45039 and # 45040, respectively. New Potential Primary Sources, New Potential Secondary Sources and New Potential Routes are prohibited from locating within the minimum setback zone of a community well unless an exception is first obtained from the Board. Class V injection wells are defined as Potential Routes in Section 3.350 of the Act (415 ILCS 5/3.350).

The Town of Normal has adopted maximum setback zones of 1,000 feet for wells #9 and #10, pursuant to Section 14.3(c) of the Act (415 ILCS 5/14.3(c)). Section 14.3(e) of the Act (415 ILCS 5/14.3(e)) prohibits New Potential Primary Sources from being located within a maximum setback zone unless an exception is first obtained from the Board. New Potential Routes are prohibited within maximum setback zones only if the community well is constructed within 1,000 feet of a public waterway, and the community well utilizes the alluvial materials as its source of water, pursuant to Section 14.3(f) of the Act (415 ILCS 5/14.3(f)). The circumstances

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

of Section 14.3(f) do not exist with regard to the maximum setback zones adopted for Normal wells #9 and #10. Therefore, New Potential Routes are not prohibited within the maximum setback zones of wells #9 and #10. Since the New Potential Routes are not prohibited in the maximum setback zone, no exception is required.

I trust this letter will satisfy your client's needs in regard to this situation. Should you have additional questions, please contact Lynn Dunaway at (217) 785-4787.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Kim", with a long horizontal flourish extending to the right.

John J. Kim
Assistant Counsel