

COMPLIANCE PLAN

Montgomery states that it has completed the following items, as required by the variance granted in PCB 87-5, by describing on page 9 of its petition:

- A. Hire[d] the Illinois State Geological Survey for a shallow groundwater resource assessment. They recommended two locations to drill shallow sand and gravel wells. They also gave some general locations the Village might try for dolomite wells. Cost of study \$5,000.00
- B. The Village contracted with Layne Western to drill 10 observation wells and to drill sand and gravel well #10. After a 30-day pump test it was determined that well #10 has a safe yield of 400 gpm. Approximate cost of well #10 and observation wells \$50,000.00.
- C. The Village contracted with Moretrench American to drill well #11 at a cost of \$20,000.00. Well #11 has a safe yield of 300 gmp.
- D. The Village contracted Layne Western to install permanent pumps in wells #10 and #11 at an approximate cost of \$30,000.00.
- E. The Village contracted with Baxter and Woodman, Inc. to conduct a water study to determine the best way to come into compliance. The study recommends piping five shallow wells and one deep well to well #4 location and constructing a lime softening water treatment plant to remove iron, hardness and radium from the water. The study was sent to the IEPA for review on May 12, 1988. The study cost \$26,100.00
- F. The Village contracted with Baxter and Woodman, Inc. to determine the impact of a V.O.C. spill across the street from the site of the proposed water treatment plant and well. Cost of study \$3,500.00. See attachment #3.
- G. The Village contracted with Walker Process to submit a turn-key proposal to construct the Water Treatment Plant. The proposal is due February 6, 1989 and will cost

\$16,500.00. See attachment #4.

- H. The Village hired Testing Service Corporation to take 6 soil borings for the proposed water treatment plant for a cost of \$1,732.00. See attachment #5.

(Pet. at 9, 10).

Montgomery's compliance plan includes replacing two of the existing deep sandstone wells with four new shallow wells with a raw water collection system and treatment for iron, hardness and radium removal. Montgomery's estimated costs for construction of the treatment facilities is \$3,600,000. The Agency states in its recommendation that it has no objection to Montgomery's proposed compliance plan and believes that if the wells and equipment are designed properly, compliance can be achieved.

HARDSHIP AND ENVIRONMENTAL IMPACT

The Agency states in its recommendation that denial of Montgomery's variance petition would result in an arbitrary and unreasonable hardship because the Agency would be required to continue to deny construction and operating permits until compliance is achieved. Further, the Agency states that continuation of restricted status means that no new water main extensions could be issued permits and that economic growth dependent on those water main extensions would not be allowed.

In regard to environmental impact, the Agency states that it believes that "an incremental increase in the allowable concentration for the contaminant in question even up to a maximum of four times the MAC for the contaminant in question, should cause no significant health risk for the limited population served by new water main extensions for the time period of this recommended variance." (Agency Rec. at 6).

CONCLUSION

Based on the record before it, including environmental impact, the Board finds that Montgomery has presented adequate proof that immediate compliance with 35 Ill. Adm. Code 602.105(a) and 602.106(b) would impose an arbitrary or unreasonable hardship upon Montgomery. Accordingly, the Board will grant the requested relief, subject to conditions.

This variance is granted for three years and eight months, until January 11, 1993. This time frame allows sufficient time and includes twelve months for water testing to show Montgomery is in compliance after construction is completed. The time frame in the Agency's recommendation is not consistently based on a

three year-eight month compliance schedule. Consequently, Montgomery's time schedule has been adapted in the Order to correspond to a three year-eight month compliance plan.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Village of Montgomery ("Montgomery") is hereby granted a variance from 35 Ill. Adm. Code 602.105(a) Standards for Issuance and 602.106(b) Restricted Status, but only as they relate to the combined radium-226 and radium-228 standard of 35 Ill. Adm. Code 604.301(a), subject to the following conditions:

- A. This variance expires January 11, 1993 or when analysis pursuant to 35 Ill. Adm. Code 605.104(a) shows compliance with the standard for combined radium, whichever occurs first.
- B. In consultation with the Agency, Montgomery shall continue its sampling program to determine as accurately as possible the level of radioactivity in its wells and finished water. Until this variance expires, Montgomery shall collect quarterly samples of its water from its distribution system at locations approved by the Agency. Montgomery shall composite the quarterly samples for each location separately and shall analyze them annually by a laboratory certified by the State of Illinois for radiological analysis so as to determine the concentration of combined radium-226 and 228. The results of the analyses shall be reported to the Compliance Assurance Section, Division of Public Water Supplies, 2200 Churchill Road, IEPA, Springfield, Illinois 62794-9276, within 30 days of receipt of each analysis. At the option of Montgomery, the quarterly samples may be analyzed when collected. The running average of the most recent four quarterly sample results shall be reported to the above address within 30 days of receipt of the most recent quarterly sample.
- C. By February 11, 1990, Montgomery shall apply to IEPA, DPWS, Permit Section, for all permits necessary for construction

installations, changes or additions to Montgomery's public water supply needed for achieving compliance with the maximum allowable concentration for the combined radium standard.

- D. Within three months after each construction permit is issued by IEPA, DPWS, Montgomery shall advertise for bids, to be submitted within 60 days, from contractors to do the necessary work described in the construction permit. Montgomery shall accept appropriate bids within a reasonable time. Montgomery shall notify IEPA, DPWS of: 1) advertisements for bids, 2) names of successful bidders, and 3) whether Montgomery accepted the bids.
- E. Construction allowed on said construction permits 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 maximum allowable concentration for combined radium shall begin no later than January 11, 1991 and shall be completed no later than January 11, 1992.
- F. Pursuant to 35 Ill. Adm. Code 606.201, in its first set of water bills or by August 11, 1989, whichever occurs first, and every three months thereafter, Montgomery shall send to each user of its public water supply a written notice to the effect that Montgomery has been granted a variance from 35 Ill. Adm. Code 602.105(a) Standards of Issuance and 35 Ill. Adm. Code 602.106(b) Restricted Status, as it relates to the combined radium standard.
- G. Pursuant to 35 Ill. Adm. Code 606.201, in its first set of water bills or by August 11, 1989, whichever occurs first, and every three months thereafter, Montgomery shall send to each user of its public water supply a written notice to the effect that it is not in compliance with the combined radium concentration standard (35 Ill. Adm. Code 604.301(a)). The notice shall state the average content of combined radium in samples taken since the last notice period during which samples were taken.

- H. Montgomery shall take all reasonable measures with its existing equipment to minimize the level of combined radium concentration in its finished water.
- I. Montgomery shall provide written progress reports to IEPA, DPWS, FOS every six months concerning steps taken to comply. Progress reports shall quote each of said paragraphs and immediately below each paragraph state what steps have been taken to comply with each paragraph.

2. Within 45 days of the date of this Order, Montgomery shall execute and forward to Bobella Glatz, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62794-9276, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five (45) day period shall be held in abeyance for any period this matter is being appealed. If the petitioner fails to execute and forward the agreement within a forty-five (45) day period, the variance shall be void. The form of certification shall be as follows:

CERTIFICATION

I, We, _____, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 89-14, May 11, 1989.

Petitioner

Authorized Agent

Title

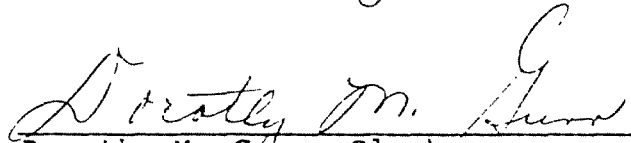
Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987, ch. 111^{1/2}, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

J.D. Dumelle and B. Forcade dissented.

I, Dorothy M Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 11~~th~~ day of May, 1989, by a vote of 5-2.



Dorothy M. Gunn, Clerk,
Illinois Pollution Control Board