

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1990

CITY OF OTTAWA,)
)
 Petitioner,)
) PCB 88-180
 v.) (Variance)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board on a "Petition for Modification of Pollution Control Board Order PCB 88-180" filed March 8, 1990 by petitioner, the City of Ottawa ("Ottawa"). By this petition, Ottawa seeks modification of the Board's April 27, 1989 Order granting Ottawa a variance from the "Standards for Issuance" (35 Ill. Adm. Code 602.105(a)) and "Restricted Status" (35 Ill. Adm. Code 602.106(b)) regulations as they apply to combined radium-226 and radium-228 until March 5, 1991. Ottawa requests modification of paragraphs F and G of the April 27, 1989 Order which required that construction of the new deep water well be completed no later than March 5, 1990 and that all installations, changes and additions necessary to achieve compliance with the radium standards be completed by March 5, 1990. Ottawa seeks to modify the Board's Order to provide for a deadline of September 5, 1991 rather than March 5, 1990.

On March 23, 1990, the Illinois Environmental Protection Agency (Agency) filed its response stating that the Agency has no objection to Ottawa's petition. The Agency notes, however, that results of a recent radium sampling of well no. 12 may require an even longer period for compliance than anticipated by Ottawa in the instant petition.

Ottawa states that it has made a good-faith effort to meet the deadlines set forth in the Board's April 27 1989 Order, but has been unable to do so for the following reasons: 1) vandalism to drilling equipment delayed progress for six weeks; 2) delays in receiving lab results; 2) delays in investigating high radium zones because contractor could not arrange inspection time with video inspection subcontractor; 3) conflicts in recommendations of geophysical subcontractor and Ill. State Geological Survey personnel re location of liners caused delay; 4) delays in obtaining quotes from well drillers; 5) delays in shipping and

fabricating inflatable packer and test pump; 6) emergency water shortage in wells in Lake Count required pump crews to shift to these wells; 7) packer hang up; 8) delay in removing sand due to lack of correct equipment; 9) gear box on well rig needed repairs; 10) sand pump lodged in well.


By modifying the internal deadlines to September 5, 1991, the time period of the variance itself would need to be extended to September 5, 1992. Therefore, the instant petition seeks not only modification of internal deadlines, but also seeks an extension of a prior Board Order granting a variance. The Board may grant such variance extensions if satisfactory progress toward achieving compliance is shown. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1036(b).)

Based upon the foregoing, the Board finds that the instant petition for modification must be treated as a new petition for variance rather than a motion for modification. Consequently, the Board finds the instant variance petition deficient with regard to the requirements of 35 Ill. Adm Code 104.102 et seq. If an amended petition is not filed within 45 days of the date of this Order, the petition will be subject to dismissal. Additionally, Ottawa did not submit the requisite filing fee. (See, 35 Ill. Adm. Code 101.120(b)(2).) This filing fee shall be submitted with the amended petition.

Lastly, the Board finds that the 120-day statutory decision period does not begin to run until the amended petition and filing fee are filed with the Board.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 12th day of April, 1990, by a vote of 7-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board