

ILLINOIS POLLUTION CONTROL BOARD  
January 23, 1992

VILLAGE OF CHANNAHON, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 91-121  
 ) (Variance)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the July 17, 1991 petition and the October 4, 1991 amended petition for variance filed by the Village of Channahon (Village). The Village seeks relief from 35 Ill. Adm. Code 602.105(a), "Standards for Issuance", and from 35 Ill. Adm. Code 602.106(a), "Restricted Status", but only as these rules relate to the radium-226 and radium-228 standard of 35 Ill. Adm. Code 611.330(a) and the gross alpha standard of 35 Ill. Adm. Code 611.330(b). (Pet. p. 1, par. 5). The Village requests a variance for three years from the grant of variance or when analysis pursuant to 35 Ill. Adm. Code 605.104(a) shows compliance with the applicable standards. (Pet. par. 1; Amend. Pet. par. 1).

On August 23, 1991, the Illinois Environmental Protection Agency (Agency) filed its recommendation that variance be denied. On October 7, 1991, the Agency filed an amended recommendation in response to the Village's amended petition. The Agency recommends that variance be granted, with conditions, until the earliest of the following three dates:

- 1) two years following the date on which USEPA either:
  - a) promulgates regulations which amend the maximum contaminant level (MCL) for combined radium, either of the isotopes of radium, or the method by which compliance with a radium MCL is demonstrated, or
  - b) publishes notice that there will be no amendments to the 5 pCi/l combined radium standard or the method for demonstrating compliance with that standard;
- 2) October 1, 1993, or

- 3) when analysis pursuant to 35 Ill. Adm. Code 611.720(d) shows compliance with the then current standard for radium.

(Agency Amended Rec. pp. 1, 7-8).

The Village waived hearing and none has been held.<sup>1</sup>

For the following reasons, the Board finds that the Village has presented adequate proof that immediate compliance with 35 Ill. Adm. Code 602.105(a) and 602.106(a) would result in the imposition of an arbitrary or unreasonable hardship. Accordingly, the variance is granted, subject to the conditions in the attached Order.

#### BACKGROUND

The Village, located in Will County, provides potable water for a population of about 250 residential and 5 industrial and commercial utility customers, respectively representing some 875 residents and 5 industries and businesses that employ approximately 25 people. (Pet. par. 10). Its system consists of one deep well, one shallow well, pumps, and distribution facilities. (Pet. par. 12, Attachment 3). The two wells, Well #1 and Well #2, are 765 feet and 140 feet in depth and operate to produce 200 and 110 gallons per minute (gpm), respectively. (Pet. par. 13).

The Village has sought one variance prior to this petition. Specifically, the Village sought a variance, in PCB 88-42, from 35 Ill. Adm. Code 604.301(a) and (b) for combined radium and gross alpha particle activity. On June 30, 1988, the Board granted a variance until July 30, 1990. (Pet. par. 33, 34).

By letter dated December 18, 1984, the Agency first advised the Village that its gross alpha particle activity was 17.4 picocuries per liter ("pCi/L"), exceeding the standard of 15 pCi/L. (Pet. pars. 16, 18, 32, Attachment 1A). On January 9, 1985, the Agency notified the Village that it was being placed on

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<sup>1</sup>On August 22, 1991, the Board set this matter for hearing based upon an objection filed on August 8, 1991. On November 7, 1991, the Board vacated its August 22, 1991 Order and granted a motion, which was filed on behalf of the Agency and the Village, to dispense with the hearing in this matter. In that motion, the Agency's attorney stated that the two objectors "indicated that they were concerned about radium in the water but expressly chose to go no further or appear at any future hearing on this matter." On November 1, 1991, the village filed a waiver of hearing. On November 21, 1991, the Board granted the Village's motion for expedited hearing which it filed on November 20, 1991.

restricted status. (Pet. par. 16, Attachment 2A). Then, by letter dated August 5, 1986, the Agency first advised the Village that the 5 pCi/L MCL standard for combined radium content was exceeded. (Pet. pars. 16, 32, Attachment 1B). The Agency reported that the Village's combined radium level was 10.4 pCi/L (6.2 pCi/L radium-226 and 4.4 pCi/L radium-228). (Pet. pars. 16, 18). By letter dated August 14, 1986, the Agency notified the village that it would be placed on restricted status. (Pet. par. 16, Attachment 2B). The Agency's reports were based upon the analysis by the USPEA of an annual composite of four consecutive quarterly samples. (Pet. par. 17).

### REGULATORY FRAMEWORK

The instant variance request concerns two features of the Board's public water supply regulations: "Standards for Issuance" and "Restricted Status". These features are found at 35 Ill. Adm. Code 602.105 and 602.106, which in pertinent part read:

#### Section 602.105          Standards for Issuance

- a) The Agency shall not grant any construction or operating permit required by this Part unless the applicant submits adequate proof that the public water supply will be constructed, modified or operated so as not to cause a violation of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 ½, pars. 1001 et seq.) (Act), or of this Chapter.

#### Section 602.106          Restricted Status

- a) Restricted status shall be defined as the Agency determination pursuant to Section 39(a) of the Act and Section 602.105, that a public water supply facility may no longer be issued a construction permit without causing a violation of the Act or this Chapter.

The principal effect of these regulations is to provide that community water supply systems are prohibited from extending water service, by virtue of not being able to obtain the requisite permits, unless and until their water meets all of the standards for finished water supplies. It is the Village's request that it be allowed to extend its water service while it pursues compliance with the combined radium and gross alpha standards, as opposed to extending service only after attaining compliance.

In determining whether any variance is to be granted, the Act requires the Board to determine whether a petitioner has presented adequate proof that immediate compliance with the Board regulations at issue would impose an arbitrary or unreasonable hardship. (Ill. Rev. Stat. 1989, ch. 111 ½, par. 1035(a)).

Furthermore, the burden is upon the petitioner to show that its claimed hardship outweighs the public interest in attaining compliance with regulations designed to protect the public. Willowbrook Motel v. Pollution Control Board, 135 Ill. App. 3d 343, 481 N.E.2d 1032 (1st Dist. 1985). Only with such showing can the claimed hardship rise to the level of arbitrary or unreasonable hardship.

A further feature of a variance is that it is, by its nature, a temporary reprieve from compliance with the Board's regulations and compliance is to be sought regardless of the hardship which the task of eventual compliance presents an individual polluter Monsanto Co. v. IPCB, 67 Ill.2d 276, 367 N.E.2d 684 (1977). Accordingly, except in certain special circumstances, a variance petitioner is required, as a condition to grant of variance, to commit to a plan which is reasonably calculated to achieve compliance within the term of the variance.

It is to be noted that grant of variance from "Standards for Issuance" and "Restricted Status" does not absolve a petitioner from compliance with the drinking water standards at issue, nor does it insulate a petitioner from possible enforcement action brought for violation of those standards. The underlying standards remain applicable to the petitioner regardless of whether variance is granted or denied.

Standards for radium in drinking water were first adopted as National Interim Primary Drinking Water Regulations ("NIPDWRs") by the USEPA in 1976. The standards adopted were 5 pCi/l for the sum of the two isotopes of radium, radium-226 and radium-228 ("Combined radium"). Shortly thereafter, Illinois adopted the same limits. Although characterized as "interim" limits, the standards nevertheless are the maximum allowable concentrations under both federal and Illinois law, and will remain so unless modified by the USEPA.<sup>2</sup>

Over much of the fifteen years since their promulgation, the current radium standards have been under revision at the federal level. The USEPA first proposed revision of the standards in October 1983 in an Advance Notice of Proposed Rulemaking (48 Fed. Reg. 45502). It later republished this advance notice in September 1986 (51 Fed., Reg. 34836). Most recently, on June 19,

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<sup>2</sup>In anticipation of USEPA revision of the radium standard, the legislature amended the Illinois Environmental Protection Act at Section 17.6 in 1988 to provide that any new federal radium standard immediately supersedes the current Illinois standard. (See also, P.A. 87-650 which amends Section 17.6 of the Act to specifically refer to Board adoption of federal combined radium-226 and radium-228 and gross alpha particle activity standards by preemptory rulemaking.)

1991, USEPA announced a proposal to modify both standards.<sup>3</sup> USEPA proposes to replace the 5 pCi/l combined radium standard by separate standards of 20 pCi/l each for radium-226 and radium-228. Under the USEPA's calendar, these standards are scheduled for promulgation by April 1993 with an effective date of October 1994.

#### COMPLIANCE PLAN

The Village has considered three compliance alternatives: 1) lime or lime-soda softening, 2) ion exchange water softening, and 3) blending. (Pet. pars. 22-26, 28-30). Lime softening produces large quantities of sludge, concentrates the contaminant, and causes additional problems and expenses in proper waste disposal. (Pet. par. 30). Ion exchange, on the other hand, increases the sodium content of the water and, as a result, may create a significant risk to persons who are hypertensive or who have heart problems. (Pet. par. 30). In addition, the waste from routine softening is high in total dissolved solids and may be difficult to dispose of legally. (Pet. par. 30). Moreover, there may be more of a hazard with ion exchange because the process concentrates the radioactivity and releases the majority of such radioactivity in the waste stream in a concentrated form. (Pet. par. 30). Even the radioactivity that remains in the ion exchange material may be a hazard to anyone subsequently working on the softener and may cause a problem in terms of disposal. (Pet. par. 30).

In light of the problems associated with the above options, the Village plans to use well #2 for blending purposes.<sup>4</sup> (Pet. par. 26). To blend the water from well 1 with water from well 2, well 1 will be isolated from the distribution system so that water from the well can be pumped directly to Channahon's water tower where mixing would occur. (Pet. par. 26, Att. 3). Although no accurate timetable has been developed, the Village intends to retain an outside consultant to assist it in reviewing and evaluating this alternative. (Pet. par. 25). The Village, however, estimates that there will be a one time construction cost of \$50,000, or \$13.00 per capita (\$50,000 divided by 3,920 residents) and a \$2.00 increase in monthly water bills per average residential customer for 20 years. (Pet. pars. 22A, 23, 24, Attachment 3). The Village also estimates that it will take 12 to 24 months to implement this option and that the interim level of contaminants in the blended water will be 6.8 pCi/L for

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<sup>3</sup>Publication occurred at 56 Fed. Reg. 33050, July 18, 1991.

<sup>4</sup>The Village does not have any existing controls for the contaminants in question. (Pet. par. 21).

combined radium and 11.5 pCi/L for gross alpha.<sup>5</sup> (Pet. pars. 22A, 26).

#### HARDSHIP

The Village argues that the expenditure of significant sums of money to come into compliance with the current regulations would be an arbitrary or unreasonable hardship, because extension of the water mains will not cause any significant harm to the environment or the people served by the potential water main extensions during the limited time period of the variance. (Pet. pars. 37, 38, 45). The Village also argues that grant of the variance would only prohibit the Agency from legally denying construction or operating permits because of the Village's non-compliance and will not make less strict the standard for the contaminants that the village must meet. (Pet. par. 38). The Village also argues that a substantial expenditure of public funds for treatment facilities which may become obsolete in the near future as a result of the USEPA proposed relaxation of the current standards is not in the public interest and does not grant a corresponding benefit to the public. (Pet. par. 42). The Village asserts that the failure to obtain a variance will negatively impact prospective home purchasers, as well as business developers and the Village's tax base, because construction within the Village's service area requiring the extension of the water supply system could not resume. (Pet. par. 43). Finally, the Village asserts that the time involved for the planning, financing, engineering, and construction of water treatment facilities prevents immediate compliance with the standards and that, in the interim period, there is a need for the expansion of the water distribution system in order to serve the domestic and fire protection need of the local population. (Pet. par. 44).

#### ENVIRONMENTAL IMPACT

The Village has made no formal assessment of the effect of the variance on the environment. The Village, however, refers to the testimony and exhibits presented by Dr. Richard E. Toohey, Ph.D., and Dr. James Stebbings, Ph.D, on July 30 and August 2, 1985, in R85-14, Proposed Amendments to Public Water Supply Regulations, 35 Ill. Adm. Code 602.105 and 602.106. (Pet. par. 31). It also refers to the testimony and exhibits in PCB 89-212,

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<sup>5</sup>The most recent radium analysis of Channahon's water supply (samples composited in September of 1991) indicates a radium level in well 1 is 7.9 pCi/L. (Amended Pet. par. 7). Channahon asserts that water from the two wells can be blended in any proportion by fixing the running times for each well so that implementation of the blending alternative will meet the proposed USEPA standard for radium. (Amended Pet. par. 7).

Village of Braidwood v. IEPA, and ask that they be incorporated by reference into this proceeding. (Pet. par. 31).

It does assert, however, that grant of variance will not cause any significant harm to the environment or to the people served by the potential water main extensions for the limited period of the variance. (Pet. pars. 37, 38).

#### CONSISTENCY WITH FEDERAL LAW

The Village states that the requested variance may be granted consistent with the Safe Drinking Water Act (42 U.S.C. Section 300(f) et seq. as amended by the Safe Drinking Water Act Amendments of 1986 (Pub. Law. 99-339, 100 Stat. 642 (1986)) and the corresponding regulations (40 CFR Part 141) because the variance does not grant relief from compliance with the federal primary drinking regulations. (Pet. par. 46).

#### AGENCY RECOMMENDATION

The Agency based its earlier August 23, 1991 variance recommendation that the Village's variance request be denied. on the Village's failure to:

- a. submit quarterly water samples to the Agency, as mandated by the Board's Order of June 20, 1988, in PCB 88-42;
- b. submit to the Agency an Interim Compliance Report pursuant to the Board's June 20, 1988 Order;
- c. make substantial improvements to its water system;
- d. give sufficient reasons why it dismissed the possibility of utilizing certain treatment methods for its water system;
- e. convince the Agency that a hardship would result from denial of a variance; and
- f. provide evidence of having reviewed any financial resources for use in achieving compliance.

(Agency Rec. pars. 13, 15, 18, 19, 20, 21, 22, 27, 28, 29, 30, 32, 40; Amended Rec. par. 1(a)-(f)).

In response to the above concerns, the Village filed an amended petition for variance. Although the Village cannot refute the Agency's claims regarding inadequate submission of quarterly water samples, the Village states that it attempted to comply with the sampling requirement, but that changes in personnel may have affected the execution of its efforts.

(Amended Pet. pars. 2, 3). In order to correct the problem, the Village states that it is instituting administrative procedures to ensure that samples will be timely taken and submitted to the Agency for analysis and that it is investigating the appointment of a full-time Public Work Director as a further check on sample submission. (Amended Pet. par. 4, Attachments 1, 2).

The Village also asserts that since securing its previous variance, it has spent \$490,000 in water system improvements designed to bring its supply into compliance. (Amended Pet. par. 5). Specifically, the Village states that a developer constructed a new shallow gravel well in the northwest part of the Village, at a cost of \$150,000, as a condition to the Village's approval of his subdivision. (Amended Pet. par. 5(A)). A second developer has constructed a new 10-inch water main, at a cost of \$100,00, from the new gravel well to his property in order to bring radium-free water from the gravel well closer to the Village's existing water distribution system. (Amended Pet. par. 5(B)). Finally, the Village states that it spent \$240,000 in local funds and federal grants to construct 8, 10, and 12 inch water mains which connect the second developer's system and the gravel well to the Village's existing distribution system. (Amended Pet. par. 5(C)).

Finally, in response to the Agency's concern regarding its utilization of other treatment options, the Village asserts that blending will cost approximately \$50,000. (Amended Pet. par. 7). Although the Village recognizes that lime or lime-soda softening may remove more radium than blending, it states that it will cost approximately \$860,000 to construct a lime or lime-soda softening facility. (Amended Pet. par. 8). In addition, the Village states that it lacks central sewage collection and treatment facilities to dispose of the large quantities of sludge and concentrated contaminant that is produced. (Amended Pet. par. 9). Although ion exchange water softening is cheaper than lime softening and will remove more radium than blending, the Village states that it will cost approximately \$780,000 to construct an ion exchange softening facility. (Amended Pet. pars. 10, 11). Finally, the Village states that construction of a new shallow gravel well will cost approximately \$150,000. (Amended Pet. par. 12).

As earlier noted, the Agency, on October 7, 1991, amended its recommendation to grant of variance. In addition to the information provided by the Village in its Amended Petition, the Agency notes that the Village did submit an interim compliance report pursuant to the Board's June 20, 1988 Order that contained a proposed plan for developing a blending process for the Village's water system. (Amended Rec. par. 4). The Agency also notes that the Village has provided evidence of having reviewed whether financial resources were available for use in achieving compliance. (Amended Rec. par. 11). The Agency also states that



the Village has exhibited a need in its Amended Petition for further expansion of its water system and facilities and that, considering the monies already expended, a ban on construction would inhibit the Village's ability to meet the needs of its increased population. (Amended Rec. par. 7). Finally, the Agency states that it believes that grant of the variance would impose no significant injury to the public or to the environment for the limited time period of the requested variance and that, as a result, denial of variance would impose an arbitrary and unreasonable hardship on the Village. (Amended Rec. pars. 8, 9, 12, 13).

#### CONCLUSION

Based on the record, the Board finds that immediate compliance with the 35 Ill. Adm. Code 602.105(a) and 35 Ill. Adm. Code 602.106(a) would impose an arbitrary or unreasonable hardship on the Village of Channahon and that Channahon has made significant progress toward compliance. We also agree that this grant of variance does not pose a significant health risk to those persons served by any new water main extensions. With the inclusion of the Agency's recommended conditions, the Board will grant variance consistent with the Agency's recommendation with one exception. The Board notes that the Agency has recommended a grant of variance for a maximum period of two years from the date of Channahon's amended petition (i.e. until October 1, 1993). The Board also notes that Channahon requests a variance for a period of three years. The Board will grant variance for a maximum period of two years from the date of this Opinion and Order (i.e. until January 23, 1994) because Channahon estimates that it will take 12 to 24 months to implement its compliance plan. The Board intends that the first year of the variance will be used to implement the compliance plan and that the second year will be used for the purpose of testing.

The Board notes that timely compliance by Channahon may be affected by pending USEPA action to promulgate new standards for radionuclides in drinking water. New radionuclide standards from USEPA could significantly alter Channahon's need for a variance or alternatives for achieving compliance. In recognition of this situation, as recommended by the Agency, the variance will contain suitable time frames to account for the effects of any USEPA alteration (or notice of refusal to alter) of the radium standards.

We again note that today's action is solely a grant of variance from standards of issuance and restricted status. The Village is not granted variance from compliance with the standards for combined radium or gross alpha activity, nor does today's action insulate the Village in any manner against enforcement for violation of these standards.

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

ORDER

The Village of Channahon is hereby granted a variance from 35 Ill. Adm. Code 602.105(a), "Standards for Issuance", and 602.106(a), "Restricted Status", as they relate to the standard for combined radium and gross alpha particle activity as set forth in 35 Ill. Adm. Code 611.330(a) and 611.330(b), respectively, subject to the following conditions:

- (1) This variance shall terminate on the earliest of the following dates:
  - (a) February 23, 1994; or
  - (b) two years following the date on which USEPA either:
    - 1) promulgates regulations which amend the maximum contaminant level (MCL) for combined radium, either of the isotopes of radium, or the radium, or the method by which compliance with a radium MCL is demonstrated, or
    - 2) publishes notice that there will be no amendments to the 5 pCi/l combined radium standard or the method for demonstrating compliance with that standard; or
  - (c) When analysis pursuant to 35 Ill. Adm. Code 611.720(d), or any compliance demonstration then in effect, shows compliance with the current standard for combined radium and gross alpha particle activity or any standard for combined radium or gross alpha particle activity then in effect.
- (2) Compliance shall be achieved with the maximum contaminant level for combined radium and gross alpha particle activity, or with any revised standard for combined radium or gross alpha particle activity then in effect, no later than the date on which this variance terminates.
- (3) In consultation with the Illinois Environmental

Protection Agency ("Agency"), Petitioner shall continue its sampling program to determine as accurately as possible the level of combined radium and gross alpha particle activity in its wells and finished water. Until this variance terminates, Petitioner shall collect quarterly samples of its water from entry points of its distribution system at locations approved by the Agency. Petitioner shall composite the quarterly samples from 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 maximum contaminant level of combined radium and gross alpha particle activity. The results of the analyses shall be reported within 30 days of receipt of the most recent result to:

Illinois Environmental Protection Agency  
Compliance Assurance Section  
Division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

At the option of Petitioner, 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.

- (4) Within six months after revision of the USEPA standard from combined radium or after USPEA publication that the standard will be unchanged or 12 months after grant of variance, whichever is applicable pursuant to Condition 1 above, Petitioner shall apply for all permits necessary for the construction of installations, changes or additions to the Petitioner's public water supply needed for achieving compliance with the maximum contaminant level for the standards in question. Such application shall be sent to:

Illinois Environmental Protection Agency  
Permit Section  
division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

- (5) Within three months of USPEA action after each construction permit is issued by the Illinois Environmental Protection Agency, Petitioner shall advertise for bids, to be submitted within 60 days, from contractors to do the necessary work described in the construction permit. The Petitioner shall accept appropriate bids within a reasonable time. Petitioner

shall notify the agency within 30 days of ache of the following actions: a) advertisements for bids, 2) names of successful bidders, and 3) whether Petitioner accepted the bids. Such notification shall be sent to:

Illinois Environmental Protection Agency  
Permit Section  
Division of Public Water Supplies  
2200 Churchill Road  
Springfield, Illinois 62794-9276

- (6) 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 contaminant level in question shall be completed no later than October 1, 1992. One year will be necessary to prove compliance.
- (7) Pursuant to 35 Ill. Adm. Code 611.851(b), in its first set of water bills or within three months after the date of this Order, whichever occurs first, and every three months thereafter, Petitioner will send to each user of its public water supply a written notice to the effect that Petitioner has been granted by the Pollution Control Board a variance from 35 Ill. Adm. Code 602.105(a) Standards of Issuance and 35 Ill. Adm. Code 602.106(a) Restricted Status, as they relate to the maximum contaminant level for combined radium and gross alpha particle activity.
- (8) Pursuant to 35 Ill. Adm. Code 611.851(b), in its first set of water bills or within three months after the date of this Order, whichever occurs first, and every three months thereafter, Petitioner will send to each user of its public water supply a written notice to the effect that Petitioner is not in compliance with the maximum contaminant level for combined radium and gross alpha particle activity. The notice shall state the average content of the contaminants in question in samples taken since the last notice period during which samples were taken and shall include the mandatory health effects language as specified in 35 Ill. Adm. Code 611.Appendix A1.
- (9) Until full compliance is achieved, Petitioner shall take all reasonable measures with its existing equipment to minimize the maximum contaminant level of combined radium and gross alpha particle activity in its finished drinking water.

- (10) Petitioner shall provide written progress reports to the Agency at the address below every six months concerning steps taken to comply with conditions 1 through 7 of this Order. Progress reports shall quote each of said paragraphs and immediately below each paragraph state what steps have been taken to comply with each paragraph:

Illinois Environmental Protection Agency  
 Division of Public Water Supply  
 Field Operations Section  
 2200 Churchill Road  
 Springfield, Illinois 62794-9276

Within forty-five days of the date of this Order, Petitioner shall execute and forward to Stephen C. Ewart, Division of Legal Counsel, Illinois Environmental Protection Agency, P.O. Box 19276, 2200 Churchill Road, Springfield, Illinois 62794-9276, a Certificate of Acceptance and agreement to be bound to all terms and conditions of the granted variance. The 45-day period shall be held in abeyance during any period that this matter is appealed. Failure to execute and forward the Certificate within 45-days renders this variance void and of no force and effect as a shield against enforcement of rules from which this variance is granted. The form of Certificate is 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 91-121, January 23, 1992.

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 By: Authorized Agent

\_\_\_\_\_  
 Title

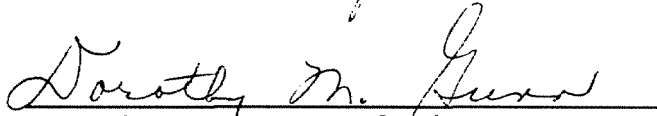
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 Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111½ 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.

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 23<sup>rd</sup> day of January, 1992, by a vote of 4-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board