

ILLINOIS POLLUTION CONTROL BOARD

April 19, 2001

GILBERTS CITGO L.L.C, an Illinois	)	
corporation,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 01-50
	)	(Water Well Setback Exception)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY and WHEELING	)	
TRUST & SAVINGS BANK a/k/a COLE	)	
TAYLOR BANK, successor trustee, as	)	
trustee under Trust No. 73-314 and JOHN	)	
CAPORASO, as beneficiary of Trust No. 73-	)	
314,	)	
	)	
Respondents.	)	

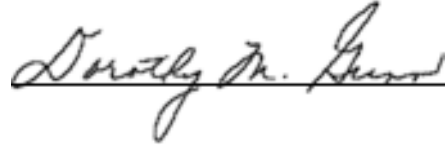
DISSENTING OPINION (by M. McFawn):

In its Supplemental Petition for a Water Well Setback Exception filed on March 15, 2001, petitioner Gilbert's Citgo, L.L.C., committed to installing double hulled underground storage tanks equipped with "state-of-the-art leak detection program." Am. Pet. at 4. That leak detection system includes two continuously monitored tank field-monitoring wells, as well as other leak detection devices described at page 7 of the majority opinion and petitioner's Exh. H and I. Petitioner made this commitment to support its obligation under the Environmental Protection Act (Act) to utilize the best available technology. 415 ILCS 5/14.2(c) (1998). Am. Pet. at 4. The order attached to the majority's opinion should have required that the petitioner install and maintain the system described in its amended petition. Such an order would insure that the petitioner implements and maintains the best available technology to which it agreed, thereby satisfying the Board's expectation and the Act's requirement that the technology employed minimizes the likelihood of the neighboring potable water well being contaminated by petitioner's business. The order fails to include such a requirement. Therefore, I respectfully dissent.



Marili McFawn  
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was submitted on the 23rd day of April 2001.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board