ILLINOIS POLLUTION CONTROL BOARD
September 20, 1985

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| CITY OF GENEVA, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | PCB 85-93 |
| | ) | |
| ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, | ) | |
| | ) | |
| Respondent. | ) | |

DISSENTING OPINION (by R. C. Flemal):

The more appropriate disposition of this matter would have been denial of variance, with leave to refile when and if necessary. There is sufficient reason for reaching this conclusion based on the mooting of the issue by the Board's August 15, 1985, action in R85-14 (Proposed Amendments to Public Water Supply Regulations, 35 Ill. Adm. Code 602.105 and 602.106), which granted the immediate relief requested by Petitioner and makes the granting of additional relief at this time duplicative and unnecessary.

Further, the pendency of final resolution on R85-14, in addition to possible action by the U.S. Environmental Protection Agency on the subject matter of the variance, leaves the record on health effects of radium in drinking water incomplete; some substantial health questions appear to remain. Since both the State and Federal actions offer promise of addressing the health questions and of being completed before Petitioner would have need of relief beyond that already afforded by the August 15 emergency rule making, it must be concluded that granting of variance at this time is premature.

For these reasons, I dissent.

Ronald C. Flemal
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was submitted on the 1st day of October, 1985.

Dorothy M. Gunn, Clerk
Illinois Pollution Control