

ILLINOIS POLLUTION CONTROL BOARD
March 24, 1988

CITIZENS UTILITIES COMPANY)
OF ILLINOIS,)
)
Petitioner,)
)
v.) PCB 86-185
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

This matter comes before the Board on a petition for variance by Citizens Utilities Company of Illinois (Citizens) filed October 23, 1986, as first amended on January 12, 1987, as second amended on April 2, 1987. Citizens requests a three year variance from 35 Ill. Adm. Code 602.105(a), (Standards of Issuance), and from 35 Ill. Adm. Code 602.106(b), (Restricted Status), as they relate to violations of the 5 pCi/l combined radium-266 and radium-228 standard of 35 Ill. Adm. Code 604.301(a). Citizens seeks variance to allow the Agency to issue permits for water main extensions during the period of Citizens' non-compliance with the radium standard. Citizens is not seeking variance from the radium standard itself.

The Board received a citizen objection and hearing was held January 13, 1987. The citizen objector was not present at hearing (R.6). At hearing the Village of Mt. Prospect was granted leave to intervene as respondent and participated. On March 19, 1987, the Board, among other things, authorized an additional hearing in response to Citizens March 9, 1987 motion. No additional hearing was held. The Illinois Environmental Protection Agency (Agency) filed a recommendation to deny on December 8, 1986; a brief in opposition to grant of variance on February 26, 1987; and an amended variance recommendation to deny on December 18, 1987, although the Agency also stated that Citizens was not entitled to a variance of more than one year (Agency Amend. Rec., p. 4). Citizens filed a notarized response on January 20, 1988, which included a single compliance plan to get Lake Michigan water with a proposed three year schedule, as opposed to the three compliance options and a five year schedule contained in its first amended petition. Since the issues raised in this proceeding are complex, the Board notes at the outset that one issue that no one disputes is the

desirability of Citizens' changing from well water to Lake Michigan water supply.

History: Citizens' petition relates to one of its certified service areas, referred to as "Chicago Suburban". Chicago Suburban supplies water and sanitary sewer service to portions of the Village of Mt. Prospect, the City of Prospect Heights, and unincorporated portions of Wheeling Township, all in Cook County. As of September, 1986 there were about 7,170 residential units served, comprised of about 3,870 single-family residences, 3,130 multi-family units and 170 commercial units.

Citizens' integrated supply and distribution system consists of four deep wells and one shallow well, chlorination equipment, two storage tanks, 500 fire hydrants, and 244,000 feet of water main. One of the deep wells, Well #5, is out of service. The shallow well, Well #1, has limited pumpage capacity and is able to supply only about 10% of the system's pumpage demand and actually supplied 8.2% in 1985 (R.25, Pet. p. 3). Citizens initially employed a private laboratory, Eberline, to sample Wells #2, 4 and 6 in October 1979; all showed radium in excess of the 5 pCi/l combined radium standard, with values ranging from 6.9 to 8.0 (Pet. Ex. C) It is important to note, as further discussed later, that these samples were the basis for an earlier variance from the combined radium standard granted by the Board in PCB 82-63 on August 5, 1982, and which terminated on January 1, 1984.*

On December 8, 1985, the Agency notified Citizens that a composite of samples of its distribution system, taken between November 1980 and July 1981 and analyzed by the Agency showed a combined radium level of 9.3 pCi/l (Pet. Ex. C). Citizens subsequently had three single samples of its distribution system

* In PCB 82-63, variance was also granted from the 15 pCi/l gross alpha particle activity standard; however, during the term of the PCB 82-63 variance quarterly samples tested by the Agency did not exceed the 15 pCi/l gross alpha standard and thus relief from this standard was not requested in this instant proceeding. The Board hereby incorporates by reference and attaches the Opinion and Order in PCB 82-63. Many of the issues involved in this instant proceeding are interrelated with this prior Opinion and Order.

and one sample of Well #2 analyzed, with the results as follows:
(Pet. Ex. C)*

<u>Collection Date</u>	<u>Location</u>	<u>Laboratory</u>	<u>Comb. pCi/l</u>
1/21/86	Distr. System	Teledyne	8.4
3/31/86	Distr. System	Argonne	1.46
5/29/86	Distr. System	Teledyne	3.8
7/24/86	Well #2	Argonne	9.3

Based on the Agency results, Citizens was placed on restricted status in April, 1986; notice first appeared in the Board's April 24, 1986 Environmental Register, and thereafter as listings were received by the Board from the Agency. At this juncture, the Board points out that at no time between January 1, 1984, when the PCB 82-63 variance terminated, and April 4, 1986, did the Agency place Citizens on its restricted status list**; in fact, Citizens was given a Certificate of Commendation by the Agency for compliance with all water quality standards in 1983 and 1984, as well as in 1982 (Ex. H). Nor did Citizens request further variance relief or demonstrate that it had come into compliance with the combined radium standard during that time. The Board granted the 1982 combined radium variance based on the Eberline results, and the Agency supported grant of variance at that time based on those same results.

Alleged Violation of the Prior Variance: One of the reasons that the Agency recommends denial is based on its allegation that Citizens had violated three conditions of that 1982 order. Since the Board takes very seriously violations of its prior variance conditions, these allegations will be dealt with first.

The Agency alleged that Citizens violated condition 1(d) of the PCB 82-63 order because, while Citizens included in its customer billings notice that variance had been granted from the

* There was some indication in this record that Argonne National Laboratory's certification status affected the Agency's recognition of its sample results. (R.129,130). Use of a state approved laboratory is required only when demonstrating compliance with federally derived requirements. (See 40 CFR 121.28) In this proceeding, a demonstration of compliance is not at issue. Here, Citizens has not demonstrated compliance; all of the sample results are used as evidence of non-compliance, and in support of the request only for relief from enforcement of a state derived regulation, i.e. restricted status. Also see PCB 87-114, 2/4/88.

** Copies of the Environmental Register reviewed, and of which the Board takes official notice, were dated 1/9/84, 1/8/85, 4/15/85, 7/23/85 and 10/23/85.

gross alpha standard, it did not also include combined radium as the condition required. (Agency Br. p. 6) Citizens acknowledged its omission at hearing, but stated that it was unintentional and that the oversight resulted from its focus on the gross alpha problem arising from the Agency's concern about gross alpha. (R. 67) Citizens asserted that its radium results "were somewhat of a side issue" in the earlier variance request. (R. 119)

The Agency also asserted that Citizens failed to comply with condition 1(a) of the PCB 82-63 order requiring radium sampling. Citizens responded that it believed it was complying when it sent its quarterly samples to the Agency for testing; they received and relied on the Agency's gross alpha results and awaited the Agency's radium results. The Agency asserted that the condition obliged Citizens to use a private laboratory and that, had Citizens done so "it would have known it was in violation of the combined radium standard" (Agency Br. p. 6, R. 96,97).

The Agency also asserted that Citizens failed to comply with condition 1(b) of the PCB 82-63 Order requiring Citizens to submit by January 1, 1984, a compliance program with increments of progress. Citizens did respond on January 3, 1984, showing compliance with gross alpha and stating that it expected to have Lake Michigan water in early 1985, under the assumption that the Glenview agreement with Wilmette (from whom Glenview receives its lake water) would proceed quickly; instead it took three years. (R. 147-49).

As a general response, Citizens asserted it believed that it was in overall compliance after the gross alpha problem was resolved, so the January 3, 1984 communication did not need a plan with increments of progress. Citizens also pointed out the fact that it received an Agency Certificate of Commendation in 1983 and 1984 for meeting or exceeding water quality standards. (Ex. H, R. 165-167)

Given this overall situation, the Board believes that any weight it might have given to Citizens' violation of the Board's Order is offset by the Agency's baffling actions. The Board is persuaded by this record that Citizens' failure to properly notice the radium portion of the variance was an inadvertant oversight. As far as the other violations, the Board is persuaded that it was not unreasonable for Citizen's to place reliance on the Agency's actions. The Agency made clear both directly and indirectly that it did not consider Citizens in violation of the radium standard until it received quarterly composite results from its own tests in December 1985. The Board wishes to strongly point out to Citizens and the Agency that the Board, in granting the earlier variance, officially recognized that the radium results submitted were sufficient to get

temporary relief from a violation of the combined radium standard.

Four quarterly test results are not necessary to demonstrate a violation, and thus the need for variance relief. On the contrary, four quarterly test results are necessary to demonstrate compliance with a regulation. Absent variance relief, and variance relief was absent after January 1, 1984, Citizens was not in compliance with the combined radium standard as long as it could not carry its burden of demonstrating compliance with testing of four quarterly samples. To reason otherwise is to suggest that grant of variance, including the conditions, had no meaning or enforceability. If the Board thought a variance were unnecessary, it wouldn't have granted it. Put another way, the Agency's actions appear to be no different than had the Board denied variance relief. It gave Certificates of Commendation in 1982, when Citizens had variance relief, and awarded the same Certificates in 1983 and 1984 when Citizens did not have variance relief. It used an identical pattern regarding restricted status. The Board also notes that it has frequently accepted single samples as evidence of a violation in variance cases.

In any event, while the Board does not absolve Citizens of its violations, it does note that the Agency's failure in particular to put Citizens on the restricted status list until it received its own test results in late 1985, and its issuance of its two Certificates of Commendation after the variance expired certainly lends credence to Citizens assertions that it did not believe it was in violation. For the reasons stated above, the Board also does not agree with the Agency's assertions that Citizens' hardship was self-imposed during this period because Citizens failed to take timely action in seeking Lake water to remedy its combined radium violation.

Citizens' Compliance Plan The Agency's final assertion supporting its recommendation to deny was that Citizens' compliance plan was speculative, and therefore not acceptable. The Board believes it is not fruitful to summarize other than the present posture regarding the compliance plan in this proceeding.

Citizens proposes to receive Lake Michigan water in three years from the date of this Board Order. Citizens has received its water allocation from the Illinois Department of Transportation; has finalized an agreement to hook on to the Village of Glenview, which in turn has finalized an agreement with the Village of Wilmette; and, as of November 2, 1987, has received the Illinois Commerce Commission's (ICC) rate approval. (amended Pet. Response to Rec., Ex. 1)

There were three conditions precedent in Citizens agreement with Glenview. The only condition still unresolved is in Article V, Section I-Conditions Precedent, #3:

The awarding of a declaratory judgment by a court of competent jurisdiction, and affirmation of that declaration by a court of last recourse if an appeal is taken, that the June 6, 1977 purchase agreement between Northfield Woods Water and Utility Co., Inc. (Northfield Woods) and Glenview does not require a connection fee to be paid to Northfield Woods if a connection is made at either of the following transmission connection point locations:

- a. The intersection of Robin Lane and West Lake Avenue.
- b. The intersection of Joy lane and East Lake Avenue.

Glenview will seek the declaratory judgment on behalf of Citizens. Citizens will pay all expenses associated therewith and select the attorney. A declaratory judgment action will not be required if Northfield Woods agrees, in writing, that a connection fee is not required at either of the transmission connection point locations.

(Pet. post hearing submittal of January 22, 1987)

Citizens states that the status of this case is as follows:

The Village of Glenview commenced the declaratory judgment action referred by the Agency on March 18, 1987, in the case entitled Village of Glenview v. Northfield Woods Water and Utility Co., Inc., Case No. 87 CH 02577, Circuit Court of Cook County, Illinois. Discovery has been in progress, and Glenview is expected to seek summary judgment or an expedited trial.

(Pet. Resp., January 20, 1988, p. 5)

The Board believes that this remaining condition need not cause the Board to reject the compliance plan as too speculative. While it is true that this condition precedent could arguably cause the whole compliance plan to unravel, it is unclear in this record whether this result would inevitably occur were there to be an adverse court decision. No costs of the

connection fees were included in this record; the ICC Order does not indicate whether recovery of such fees has been factored into Citizens' approved compensation for the incremental costs of providing Lake water; and Citizens has not made clear whether this condition precedent is an essential element of its proposed timetable. Citizens proposed timetable, identically submitted in both its April 2, 1987 second amended petition and in its January 20, 1988 response is as follows:

<u>Event</u>	<u>Total Elapsed Time From Date of Board Order Granting Petition Request</u>
1. Satisfying conditions precedent to the Glenview Lake Michigan water supply agreement including ICC approval of agreement and associated tariff revisions	12th month
2. Citizens and Glenview initiate design of facilities for Glenview supply.	12th month
3. Citizens and Glenview complete design of facilities for Glenview supply.	18th month
4. Citizens and Glenview receive necessary permits and easements, bonding, complete advertisement, bid and award construction contract.	24th month
5. Start of construction of facilities for Glenview supply.	24th month
6. Complete construction and begin supply from Glenview.	36th month

Citizens is now committed to this one compliance plan. It has retreated from its earlier two alternate scenarios: to negotiate with another water supply source if Glenview and Wilmette failed in their negotiations; or to install ion exchange treatment should the negotiations with the other water supply fail. (Amend. Pet. p. 3).

Citizens has also stated that "this revised compliance schedule, assuming timely action by the regulatory authorities and absent delays due to causes beyond Citizens' reasonable control, allows for completion of a Lake Michigan water supply

from Glenview within three years of the date of the Board's order granting the requested variance". (Pet. Resp. 1/20/88, p. 3,4)

The Board is persuaded that the number of steps Citizens has taken already to secure Lake water is sufficient to demonstrate that its compliance plan at this juncture is beyond "speculative" for purpose of grant of variance. However, while the Board may hypothesize as to why Citizens does not wish to state precisely at this time, regarding the condition precedent, its course of action should the Court decision be adverse to Citizens, the Board cautions Citizens that any subsequent petition to lengthen or alter its compliance plan will be carefully reviewed.

Hardship: Citizen's has stated that it has been contacted for new developments of about 200 residential/commercial units, some of which were already under construction (presumably prior to knowledge of the imposition of restricted status) (R. 18). Citizens also testified that it would lose the additional revenues generated by new development (R. 79).

There was no dispute concerning the minimal, if any, environmental effect during the term of the variance. The Board therefore finds that, given the totality of circumstances of this case discussed earlier, and the fact that Citizens has been attempting to timely come into compliance, certainly since the time of the Agency's notification of the results of its combined radium tests, that Citizens would suffer an arbitrary or unreasonable hardship should variance be denied.

The Board will grant variance, but only for two, not three years. The Board is not persuaded that Citizens still needs the one year lead time to initiate engineering designs. In the amended compliance plan on p. 7 of this Opinion, when first filed last April 2, 1987, Citizens asserted that it needed one year to initiate design following Board action, for which it requested expedited consideration. (Second Amend. Pet. p. 4,6) The Board notes that at the earlier January 13, 1987 hearing Citizens testified that it would initiate design and construct the facilities following the ICC approval of the Wilmette/Glenview contract, which approval occurred in November, 1987. Citizens also testified at hearing, however, that it and Glenview had already contracted with an engineering firm to do the design work. (R. 28,150,151). In addition, the compliance plan proposes initiation of design to run concurrently with seeking ICC approval. Finally, Citizens again proposed the same one year lead time in its January 20, 1988 response.

Given the less than precise record concerning the status of Citizens' engineering design efforts, the Board will assume that Citizens does not need the one year lead time to initiate design. The Board notes that it has not shortened the six months Citizens requested to complete facility design.

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

ORDER

1. Citizens Utilities Company of Illinois is hereby granted variance as it relates to its Chicago Suburban water supply from 35 Ill Adm. code 602.105(a) and from 35 Ill. Adm. code 602.106(b) but only as they relate to the 5 pCi/l combined radium-226 and radium-228 standard of 35 Ill. Adm. Code 604.301(a), subject to the following conditions:
 - (a) This variance terminates on March 24, 1990, or when analysis pursuant to 35 Ill. Adm. Code 605.105(a) shows compliance with the combined radium standard, whichever comes first;
 - (b) In consultation with the Agency, Petitioner shall continue its sampling program to determine as accurately as possible the level of radioactivity in its finished water. Until this variance expires, Petitioner shall collect quarterly samples of its water from its distribution system, shall composite and shall analyze them annually for radiological analysis so as to determine the concentration of combined radium. 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 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;
 - (c) Compliance shall be achieved no later than March 24, 1990;
 - (d) By September 24, 1988, the Petitioner shall complete its design of facilities to receive a Lake Michigan water supply from Glenview;
 - (e) By December 24, 1988, the Petitioner shall apply to the Illinois Environmental Protection Agency for all necessary permits;

By March 24, 1989, easements, bonding, advertisements, and bid and award of construction contracts shall be completed, and construction of facilities shall have commenced;

The deadline for applying for said Agency permits for treatment facilities and starting said construction of treatment facilities may be extended by the Agency in writing for good cause shown. Notwithstanding this provision Petitioner must comply in full with paragraph (g) below;

- (f) Petitioner shall notify the Agency's Division of Public Water Supplies, FOS, at 2200 Churchill Road, Springfield, Illinois 62794-9276, within 30 days of each action of: 1) advertisements for bids, 2) names of successful bidders, and 3) whether Petitioner accepted the bids.
- (g) By March 24, 1990, construction shall have been completed and receipt of a Lake Michigan water supply from Glenview shall commence;
- (h) Pursuant to 35 Ill. Adm. Code 606.201, in its first set of water bills or within three months after the date of this Variance 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(b) Restricted Status, as they relate to the 5 pCi/l combined radium standard;
- (i) Pursuant to 35 Ill. Adm. Code 606.201, 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 as written notice to the effect that Petitioner is not in compliance with the combined radium standard. The notice shall state the average combined radium content in samples taken since the last notice period during with samples were taken;
- (j) That Petitioner shall take all reasonable measures with its existing equipment to minimize the level of combined radium in its finished water; and
- (k) The Petitioner shall provide written progress reports to IEPA, DPWS, FOS every six months concerning steps taken to comply with paragraphs (j) and every three months concerning steps taken to comply with paragraph (e) and (f). 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, petitioner shall execute and forward to Wayne L. Wiemerslage, Enforcement Programs, Illinois environmental Protection Agency, 200 Churchill Road, Springfield, Illinois 62794-9276, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. The 45-day period shall be held in abeyance during any period that this matter is being 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 variance was granted. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board, in PCB 86-185, dated March 24, 1988, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

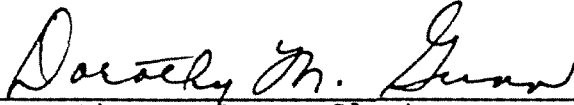
Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, 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 24th day of March, 1988, by a vote of 4-2.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
August 5, 1982

CITIZENS UTILITIES COMPANY OF ILLINOIS,)
)
) Petitioner,)
)
) v.) PCB 82-63
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter comes before the Board on the petition for variance of Citizens Utilities Company of Illinois (Citizens) filed May 6, 1982 as amended June 4, 1982. Citizens seeks variance from the 15 pCi/l gross alpha particle activity and 5 pCi/l radium-226, 228 limitations of Rule 304(C)(1) of Chapter 6: Public Water Supplies. On June 22, 1982 the Environmental Protection Agency (Agency) filed its Recommendation in support of grant of variance until January 1, 1984. Hearing was waived and none has been held.

Citizens seeks variance on behalf of one of its service areas, the "Chicago Suburban" area serving 7,090 water service connections in portions of the Village of Mt. Prospect, the City of Prospect Heights, and unincorporated areas in Wheeling Township. The water needs of these users are supplied by four deep (1320' to 1468') wells, Nos. 2, 4, 5, and 6; while an additional shallow (213') well, No. 1, exists, it is not normally used due to the limited production capacity of the aquifer. A sixth well has been abandoned.

The gross alpha particle activity level of each deep well was determined by the Agency in 1974 or 1975; no data is available for Well No. 1. The respective activity levels for Wells 2, 4, 5, 6 in pCi/l are, respectively, 19.7 ± 4.2 , 19.1 ± 5.1 , 19.9 ± 4.9 , 11.2 ± 3.6 . In October, 1979, Citizens had Wells 2, 4, and 6 tested for gross alpha and radium 226 and 228 levels by Eberline, a private laboratory. In pCi/l, Well No. 2 showed levels of gross alpha of 22 ± 6 , radium 226 of 3.6 ± 0.2 and radium 228 of 4.4 ± 1.8 ; Well No. 4, in two tests showed levels of gross alpha of 20 ± 6 and 19 ± 2 , radium 226 of 2.8 ± 0.2 and 2.9 ± 0.1 , and radium 228 of 3.1 ± 2.1 and 5.0 ± 2.0 ; and Well No. 6 showed levels of gross alpha of 14 ± 2 , radium 226 of 3.3 ± 0.2 and radium 228 of 3.9 ± 2.3 .

An Agency analysis of a composite of four quarterly distribution system samples taken between November, 1980 and July, 1981 showed a gross alpha level of 16.0 ± 3.99 , but did not report radium levels. Subsequently, Agency single samples showed levels of 1.58 ± 1.44 pCi/l (sic) and 14.0 ± 3.83 pCi/l.

Citizens believed that there is no alternative complying groundwater source available to it. The shallow aquifer is viewed as infeasible either as a total replacement source or as a blending source, due to its unreliable production capacity, while the deep aquifer is generally believed to exceed radiological limitations. Compliance could be achieved by installation of treatment facilities at all 4 wells at a total capital cost of \$994,000. However, this installation and operation would impose additional yearly revenue requirements of \$535,091, which would be passed on to Citizens' customers. Each would be required to pay an additional \$73 per year, a 42% increase in rates.

Citizens' preferred compliance option is replacement of its well water supply with Lake Michigan water. It has received an allocation available to it in 1984, and is presently negotiating with two (unnamed) regional water supply systems concerning delivery. Depending upon with which system Citizens' contracts, this water could be available by November, 1983 or by July, 1984.

Finally, Citizens states its belief that no unreasonable health risks would be incurred by its customers if variance is granted. In support thereof, Citizens presents a statement by Dr. R.E. Rowland recommending an increase in the allowable radiological quality levels, and reminds the Board that it has taken prior notice of Dr. Rowland's opinions.

The Agency supports grant of variance until January 1, 1984, in view of the fact that no commitment has been made to a regional system which would make relief available until January 1, 1986. It suggests that since each of Citizens' wells has elevated radiological levels, that blending is unlikely to be a productive enterprise.

The Board finds that to require immediate compliance would impose an arbitrary or unreasonable hardship, particularly since there would appear to be little immediate threat to health from consumption of water containing radioactivity at the levels present in Citizens' water (see Village of Kirkwood v. IEPA, PCB 81-111, December 3, 1981 and Village of Lemont v. IEPA, PCB 80-48, April 30, 1981). Variance is granted until January 1, 1984 subject to the conditions outlined in the attached Order.

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

ORDER

1. Petitioner, Citizens Utilities Company of Illinois, is granted a variance from the 15 pCi/l gross alpha particle activity and 5 pCi/l radium-226, 228 limitations of Rule 304(C)(1)(a-b) of Chapter 6: Public Water Supply until January 1, 1984, subject to the following conditions:

a. Petitioner shall, in consultation with the Agency, continue its sampling program to determine as accurately as possible the level of radioactivity in its wells and finished water. Testing for radium 226 and 228 shall be continued.

b. Petitioner shall continue to pursue the option of replacing its well water supply with Lake Michigan water. As expeditiously after identification of a feasible compliance method as is practicable, but no later than January 1, 1984, Petitioner shall submit, to the Agency, a program (with increments of progress) for bringing its system into compliance with radiological quality standards.

c. Petitioner shall take all reasonable measures with its existing equipment to minimize the level of radioactivity in its water supply.

d. Pursuant to Rule 313(D)(1) of Chapter 6, 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 the 5 pCi/l radium-226, 228 standard and 15 pCi/l maximum gross alpha particle activity standard. The notice shall state the average content of gross alpha particle activity in samples taken since the last notice period during which samples were taken.

2. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, PWS Enforcement Programs, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board, in PCB 82-63 dated _____, understand and accept the said Order realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 5th day of August, 1982 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board