

ILLINOIS POLLUTION CONTROL BOARD
July 3, 1990

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|------------------------------|---|---------------------|
| STATE OIL COMPANY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 90-102 |
| |) | (Water Well Setback |
| DR. AND MRS. JAMES KRONE and |) | Exception) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondents. |) | |

ORDER OF THE BOARD (by J. Theodore Meyer):

This petition for water well setback exception was filed May 23, 1990. On June 12, the McHenry County Defenders (Defenders) filed a letter objecting to grant of the exception. On June 13, Dr. and Mrs. James Krone (the Krones) filed a motion to dismiss, as well as a response in opposition to the petition. On June 26, State Oil Company (State Oil) filed its response to the motion to dismiss. On June 27, the Illinois Environmental Protection Agency (Agency) filed a response to the petition objecting to grant of exception; this response addresses the filings of the Defenders and the Krones. Finally, as the Board noted in its June 21, 1990 Order, hearing in this matter is presently scheduled for July 30.

The Defenders' letter, the Krones' motion to dismiss, and the Agency's response to the petition each identify areas in which the petition is believed to be informationally deficient; indeed, the Agency specifically agrees with some observations of the Defenders and the Krones, and requests that certain information be supplied in advance of hearing, specifically by July 23. (Agency response, Section I). In response, State Oil essentially states its belief that the petition is generally adequate, and that the purpose of hearing is development of the specific details of the situation.

The Board notes that this is the first case of its type which has been filed with the Board. Because this is the case, the Board will not immediately dismiss the petition, but will require State Oil to amend its petition. If State Oil does not amend the petition, the petition will be subject to dismissal at a later date. While there are some situations in which deficiencies can be remedied at hearing, that is not the case here. Given the nature of the deficiencies noted by the Agency and the Krones, the Board believes that a public hearing would not be meaningful if information is not provided to the parties sufficiently in advance

of hearing to allow for thoughtful analysis. (The Board notes that at this point the Defenders have not moved for party status in this proceeding.)

Accordingly, the Krones' motion to dismiss this petition is denied. The Agency request for additional information contained in its June 27 response is granted. State Oil is directed to file an amended petition responding to the informational deficiencies noted in the Agency's response, including but not limited to:

- a) findings and opinions of the consultant hired to "characterize the extenuating circumstances attributable to the site and subsurface conditions which could...mitigate the potential of contamination of the private well...".
- b) hydrogeological and soil information and basic chemical components of the product to the stored, information regarding health impacts on the affected well owners, economic impacts on the affected well owner and information explaining the applicable technology-based controls.
- c) a contingency plan to provide an immediate source of water to the Krones, as well as a plan which would provide the Krones with a long-term source of water. As part of such plan, State Oil should ensure that, at a minimum, potable water service may be readily extended from its property to Dr. Krone's property as an interim measure pending extension of service from the community water supply.
- d) an explanation of any discrepancies between maps and data supplied to state and local agencies relating to placement of tanks, location of septic fields, and placement of wells.
- e) a statement of the exact distance between the Krone's water supply and the location of the proposed new underground storage tanks.

State Oil is, of course, free to provide any additional information it wishes. The amended petition must be served in a manner that insures its receipt by the parties, the hearing officer, and the Board on or before July 23, 1990. The Board also asks that State Oil send a courtesy copy of its amended petition to the Defenders.

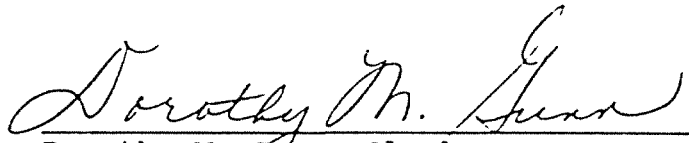
The Board observes that the July 23 filing deadline may prove

to be impractical. The hearing officer is hereby given the authority upon timely motion, to extend the deadline for filing of the amended petition up to 60 days, provided that the amended petition is received no later than seven days prior to the first scheduled hearing.

Again, the Krone's motion to dismiss is denied. However, if an amended petition curing the deficiencies noted in this Order is not filed on or before July 23, 1990 or such later date as specified by hearing officer order, this petition will be subject to dismissal.

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 3rd day of July, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board