

ILLINOIS POLLUTION CONTROL BOARD
May 6, 2010

VILLAGE OF MORTON,)	
)	
Petitioner,)	
)	
v.)	PCB 10-83
)	(Community Well Setback Exception)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.L. Blankenship):

On April 14, 2010, petitioner Village of Morton (Village) filed a petition for a community well setback exception to enable the Village to construct a “de-icing agent storage facility” on a site located near the “Village water treatment plant and associated water wells.” Petition at 1. The site is located between the Public Works Garage at 450 Detroit Avenue and the Water Treatment Plant at 500 Detroit Avenue in the Morton, Tazewell County.

The petitioner identifies itself as the owner of the only affected water well in the area and states that the affected well is a “potable water well supply.” Petition at 6. The petition also states that the Village “requests a hearing on this petition as soon as the Board can reasonably schedule it.” *Id.*

Pursuant to Section 14.2(c) of the Environmental Protection Act (Act), as a “new potential source or route” of contamination, the Village must file a petition with the Board and the Agency seeking an exception to the minimum setback requirements applicable to a community water supply. 415 ILCS 5/14.2(c) (2008). The Village’s petition meets the content requirements of 35 Ill. Adm. Code 106.304 and Section 14.2 of the Act. 415 ILCS 5/14.2 (2008). The Board accepts this petition for hearing.

The Village has the burden of proof. 415 ILCS 5/40(a)(1) (2008); *see also* 35 Ill. Adm. Code 106.310. The respondent, the Illinois Environmental Protection Agency, may file a response on or before May 27, 2010, the 21st day after the date of this order. The Village may file a reply within 14 days after service of any response. 35 Ill. Adm. Code 106.306. The Board will hold at least one hearing in an exception proceeding and the hearing officer will schedule the hearing. 35 Ill. Adm. Code 106.308. The Board will grant an exception where the petitioner has presented adequate proof:

[T]hat compliance with the setback requirements of this Section would pose an arbitrary and unreasonable hardship upon the petitioner, that the petitioner will utilize the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that

the maximum feasible alternative setback will be utilized, and that the location of such potential source or potential route will not constitute a significant hazard to the potable water supply well. 415 ILCS 5/14.2(c) (2008).

The Board grants the parties' request for expedited hearing. The assigned hearing officer must contact the parties promptly to set the matter for hearing in accordance with the requirements of the Act and the Board's procedural rules. The Board directs that this matter proceed to hearing as expeditiously as is practicable. For its part, the Board will render its decision as soon thereafter as it reasonably can, consistent with the Board's workload and budgetary constraints.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 6, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board