

ILLINOIS POLLUTION CONTROL BOARD
December 3, 1981

BLAKE WATER CORP.,)
)
) Petitioner,)
)
) v.) PCB 81-137
)
 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 the Blake Water Corp. (Blake) filed September 3, 1981 as amended September 24, 1981. Blake seeks variance from the 2.0 mg/l fluoride concentration limit of Rule 304(B)(4) of Chapter 6: Public Water Supplies. On September 3, 1981, the Illinois Environmental Protection Agency (Agency) recommended that variance be granted. Hearing was waived and none has been held.

The Blake Water Corp. serves 53 residential users in the Windcrest Subdivision, Cedar Township, Knox County, which is about 3½ miles south of Galesburg. Blake's single 520 feet deep well provides water with fluoride concentrations ranging from 2.0 mg/l to 4.3 mg/l, averaging 3.3 mg/l.

Blake believes that any new well drilled in the area would supply water containing fluoride in the same concentration. Blake believes its most feasible compliance option would be fluoride removal by the activated alumina adsorption process. Equipment installation is anticipated to cost \$60,000, with additional yearly revenue of \$9,000 required to finance the capital costs and operational expenses. This would mean an increase in monthly user charges of \$33.00.

Finally, both Blake and the Agency assert that grant of variance at these fluoride levels will not adversely affect the health of Blake's users.

The Board finds that the Village has demonstrated that immediate compliance would impose an arbitrary and unreasonable hardship on its water users. This is particularly the case, since a February 1980 Agency letter to Blake indicates that other problems may still exist which are immediately threatening to health, and which should be corrected if Blake has not already done so,

The Agency acknowledges that this petition falls in line with recent cases in which the Board has granted 5 year variances to small municipalities, but believes variance can be recommended only through January 1, 1984, the current deadline for exemptions under Section 1416 of the Safe Drinking Water Act, 42 U.S.C. 300(g)-5. For the reasons stated in previous opinions, consistent with §1415 of the SDWA which has no deadline, the Board grants variance for a five year period, subject to the conditions outlined in the attached Order. (See City of Minonk, PCB 80-136, October 2, 1980, and cases cited therein at p. 3.)

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

ORDER

1. Petitioner, the Blake Water Corp., is granted a five year variance from the 2.0 mg/l maximum fluoride concentration standard of Rule 304(B)(4) of Chapter 6: Public Water Supplies, subject to the following conditions:

a. Beginning on or about June 1, 1982, and at six month intervals thereafter, the Petitioner shall communicate with the Agency in order to ascertain whether fluoride removal techniques specifically applicable to small systems have been developed and identified. As expeditiously after such identification as is practicable, Petitioner shall submit to the Agency a program (with increments of progress) for bringing its system into compliance with fluoride standards.

b. Petitioner shall take all reasonable measures with its existing equipment to minimize the level of fluoride in its water supply and shall not allow the fluoride concentration to exceed 4.0 mg/l.

c. Pursuant to Rule 313(D)(1) of Chapter 6, on or before January 30, 1982 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 2.0 mg/l maximum fluoride standard. The notice shall state the average content of fluoride 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:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-137, 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 3RD day of December, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board