

ILLINOIS POLLUTION CONTROL BOARD  
December 8, 1977

CITY OF TROY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 76-276
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

This matter comes before the Board upon the November 3, 1976 Petition for variance filed by the City of Troy (Troy) requesting relief from Rule 305 of Chapter 6: Public Water Supplies. Objections by citizens were filed and a hearing was held on January 26, 1977. The Environmental Protection Agency (Agency) filed its Recommendation in favor of granting the variance with certain conditions attached on January 25, 1977.

Troy, located in Madison County, Illinois, owns and operates a public water supply and distribution system which provides water with a high manganese content. This has caused the water to turn a dark or black color on occasion. This supply is not chlorinated because the addition of chlorine would cause constant discoloration of the water. Discoloration poses no health problem but makes the water visually unappealing and stains clothing and plumbing fixtures. The grant of a variance would exempt Troy from the chlorination requirement until June 30, 1978, when manganese filtering and chlorination systems are scheduled to be operational.

Some confusion was engendered by the failure to provide a complete transcript of the January 26, 1977 hearing due to the accidental destruction of a tape used to record the proceedings. The parties filed a summary of testimony in the form of Minutes in lieu of a complete transcript. Due to the presence of the objectors, the Board ordered the parties to a second hearing on March 28, 1977 and denied a motion for decision without a hearing on May 12, 1977. We wish to reconsider those decisions at this time. While Procedural Rules 404 and 407 require a hearing when an objection is timely filed, the objections here were not to the grant of a variance but rather to the presence of dark water in the system. As the addition of chlorine without manganese filtration would exacerbate the present dark water problem, the Board considers those submissions as statements in favor of granting the requested variance. Therefore, no additional hearing is required before deciding this matter.

The Minutes of the January 26, 1977 hearing were filed with the Board following review by counsel for both parties and certification that its contents are an accurate summary of the evidence heard on that date. Because of the value of that evidence and the assurance of its accuracy, the Board hereby admits those Minutes into the record.

The requirement for chlorination was adopted by the Board in November 1974 effective a year later. The long delay in addressing this problem is not satisfactorily explained in the record but may be due to financial problems.

In its Recommendation the Agency submits, and the Board agrees, that any exacerbation of the black water problem would impose an arbitrary and unreasonable hardship on Troy.

The environmental harm which might result from the grant of a variance would be the contamination of Troy's water supply. One incident of contaminated water was reported from monthly bacteriological samples taken during the past three years. However, the Agency believes that this potential hazard can be alleviated by taking semi-monthly bacteriological samples. Therefore, the Board finds that the benefit gained from the grant of a variance outweighs any harm to the public.

The Board grants a variance from Rule 305 of Chapter 6 until June 30, 1978, subject to the following conditions. First, Troy shall submit the required set of bacteriological samples twice each month instead of monthly. Second, Troy shall post a surety bond in the amount of \$30,000 to assure completion of the chlorination portion of the filtration-chlorination project. Third, Troy shall establish and maintain a point of contact to resolve citizens' complaints that deal with problems of sediment accumulation and discoloration during non-working hours. Fourth, Troy shall adopt a cross-connection control program to control contamination external to the supply and its distribution system. Finally, these programs to resolve citizens' complaints and control cross connections shall be submitted to the Agency for approval.

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

#### ORDER

Troy is granted a variance from Rule 305 of Chapter 6: Public Water Supplies until June 30, 1978, subject to the following conditions:

- 1) Troy shall submit required bacteriological samples to the Agency twice each month.
- 2) Troy shall post a performance bond with the Agency in the amount of \$30,000. This bond shall be in a form acceptable to the Agency and is given

to assure completion of the chlorination portion of the filtration-chlorination project. Such bond shall be posted within 35 days from the date of this Order and shall be addressed to:

Manager, Variance Section  
Division of Water Pollution Control  
Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

3) Troy shall establish a point of contact to resolve citizen complaints that deal with problems of discoloration and sediment accumulation during non-working hours.

4) Troy shall adopt a cross-connection control program to control contamination external to the supply and its distribution system.

5) The programs described in paragraphs 3 and 4 of this Order shall be submitted to the Agency for approval within 60 days of the date of this Order.

6) Within 45 days from the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, an executed Certification of Acceptance and agreement to be bound to all terms and conditions of the variance. This 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I, (We), \_\_\_\_\_ having  
read the Order of the Pollution Control Board  
in PCB 76-276 understand and accept said Order,  
realizing that such acceptance renders all  
terms and conditions thereto binding and en-  
forceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8<sup>th</sup> day of December, 1977 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board