

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1976

CITY OF OREGON, a municipal)
corporation,)
)
Petitioner,)
)
v.) PCB 75-497
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter comes before the Board on the Petition for Variance filed on December 22, 1975, by the City of Oregon, seeking relief from the chlorination requirements of Rule 305 of the Public Water Supply Rules and Regulations. An Agency Recommendation was filed with the Board on February 9, 1976. No hearing was held in this matter.

Rule 305 requires that each public water supply, except those purchasing water with an adequate chlorine residual, chlorinate its water prior to its entrance into the distribution system. This requirement became effective as of December 21, 1975, and is directed toward protecting consumers from the possible entrance of pathogenic organisms into the supply system.

Accompanying the variance petition was a report prepared by a consultant to the City entitled "Waterworks Improvement Study" in which extensive and costly water system improvement projects were suggested to the City. Because Oregon is in the process of making a detailed review of this study, Oregon requests that a variance be granted from the chlorination requirements until December 21, 1977, to enable it to make some alleged cost savings. At the present time Oregon has three wells, although their consultant recommended that a fourth well be drilled to enable Oregon to meet its anticipated needs. The commencement date for drilling the fourth well is quite uncertain at present. The consultant recommended that Well #1 be abandoned or used only as a standby well after the fourth well is in operation. Because of this anticipated change, it is alleged that any costs expended to achieve compliance at Well #1 would be wasted. Oregon estimates a total project cost of \$6,000.00 for a chlorination unit and housing to serve Well #1. Since Well #1 may be abandoned or used only on a standby

basis, Oregon alleges two reasons this total \$6,000.00 expenditure would be improvident: First, money expended for building construction would be a complete loss; second, money expended for equipment at Well #1 would be a loss since that equipment could not be used at Well #4 because of the different water production rates of the two wells.

The Agency contends that this particular economic hardship projected by Oregon is not accurate. If it were in fact necessary to provide a building for the chlorination equipment at Well #1, the Agency submits that a portable building could be used which could be transferred to Well #4, when and if Well #1 is abandoned. However, while visiting the site of Well #1, Agency field operations personnel found that a utility building exists containing a pump which has been used in the past for the chemical feeding of polyphosphate. With minor modifications the Agency believes that this building could be used to house the chlorination equipment and that the pump previously used to feed the polyphosphate may now be acceptable for use in feeding liquid sodium hypochlorite. In the eventuality that new equipment is necessary for chlorination at Well #1, the Agency alleges that at least one manufacturer markets a chlorinator with six different chlorination capacities. Such a unit could be used at Well #1 until such time that Well #4 was in operation.

In regards to the installation of chlorination facilities at Wells #2 and 3, Oregon alleges that more favorable bids could be obtained for such equipment if the bids were received when taking bids for the drilling of Well #4 and the construction of its related building. By doing this, Oregon could dictate that all equipment be of the same manufacturer, thereby allegedly providing for better operation because of the similar nature of the equipment, and also reducing cost by avoiding unnecessary duplication of repair parts.

The Agency is not convinced that Oregon would receive more favorable bids for the installation of equipment at Wells #2 and 3 by delaying such installation until the drilling of Well #4. Oregon has not offered any precise savings estimate which might result from purchasing all equipment at the same time, and the Agency believes that any such savings would be negligible and offset by probable increases in the cost of the equipment in the future. The Agency also submits that if similar equipment is desired, Oregon could specify a particular brand of equipment in setting its bids for the construction of Well #4. Whether such equipment is needed for Wells #2 and 3 seems to be in doubt however. While visiting these wells, Agency personnel discovered that in addition to the pump at Well #1, two other chemical feed pumps exist, one of which is idle while the other is presently being used for feeding polyphosphate at Well #3. The Agency

believes that Oregon can use these pumps to feed sodium hypochlorite at these wells.

This Board has in the past stated that the burden of proof in variance matters is on the petitioner and that the evidence to justify the allowance must be substantial and convincing. Swords v. EPA, PCB 70-6, 1 PCB 5 (1970). We do not believe that Oregon has established a hardship sufficient to justify the grant of a two year variance; we will, however, grant a variance for a period of 150 days to allow for the installation of chlorination equipment at the existing facilities. Oregon can determine whether it wishes to use the existing equipment for feeding liquid sodium hypochlorite into the system, or whether it wishes to purchase new equipment for use in the gas chlorination of the system. The Board notes that the consultant for Oregon recommended that gas chlorination be installed at each of the existing wells and estimated the cost of compliance using such equipment to be \$24,900.00. Compliance costs using existing equipment would be considerably less initially, but this initial advantage would be offset after a period of time by the higher operating costs associated with the use of liquid sodium hypochlorite.

The grant of this variance is conditioned on the fact that Oregon file a project completion schedule and bi-monthly progress reports with the Agency. In addition, a performance bond will be required along with a standard certificate of acceptance.

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

ORDER

IT IS THE ORDER OF THE BOARD that the City of Oregon be granted a variance from the chlorination requirements of Rule 305 of the Public Water Supply Rules and Regulations for a period of 150 days from the date of this Order subject to the following conditions:

1. Oregon shall file a project completion schedule with the Agency within 35 days of this Order and thereafter file bi-monthly progress reports with the Agency until completion of the facilities.

2. Oregon shall post a performance bond with the Agency in the amount of \$24,900.00 in a form satisfactory to the Agency to assure completion of the construction and installation of its chlorination facilities. Such bond shall be posted within 30 days of the date of this Order at the following address:

Environmental Protection Agency
Public Water Supply Division
2200 Churchill Road
Springfield, Illinois 62706

3. Within 30 days of the date of this Order, Oregon shall complete and submit to the Agency, at the above address, the following certification:

I, (We), _____ having read the Order of the Illinois Pollution Control Board in PCB 75-497, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

Mr. Dumelle dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11th day of March, 1976 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board