

ILLINOIS POLLUTION CONTROL BOARD
August 18, 1983

LITTLE SWAN LAKE SANITARY DISTRICT,)
)
 Petitioner,)
)
 v.) PCB 83-74
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by W.J. Nega):

This matter comes before the Board upon a June 6, 1983 petition for variance from 35 Ill. Adm. Code 604.202 (formerly Rule 304(b)(4) of Chapter 6: Public Water Supplies) filed by the Little Swan Lake Sanitary District (LSLSD) to exceed the maximum allowable concentration for fluoride in finished water in order to use its present water supply without providing treatment for the removal of fluoride. A prior similar variance was granted to LSLSD on May 25, 1978 in PCB 78-53. The Illinois Environmental Protection Agency (Agency) filed a Recommendation on July 26, 1983 which recommended that variance be granted. No hearing has been held in this matter.

The Petitioner's existing water supply system serves a present community of 300 people who live in permanent homes and seasonal cabins on 100 lots surrounding Little Swan Lake. Since there are 580 lots, a greater population is eventually anticipated. Little Swan Lake, which has a water surface area of approximately 250 acres, is located about 4 miles west of the Village of Avon in Warren County, Illinois.

The Petitioner's centralized water system draws from two existing deep wells containing raw water. Both wells are finished to a depth slightly more than 600 feet in shale and limestone. The average level of fluoride at the south well (Well #1) is 2.66 mg/l. The present capacity of Well #1 is approximately 30 gallons per minute (gpm) and treatment will consist of aeration to remove hydrogen sulfide and chlorination. The average level of fluoride at the north well (Well #2) is 3.0 mg/l. The present capacity of Well #2 is approximately 55 gpm and treatment will consist only of chlorination. (Pet. 1-2).

The Petitioner alleges hardship based on an estimate of \$207,500.00 to install fluoride removal equipment and an additional \$35,570.00 per year to operate and maintain this equipment. (See: Exhibits A and B). This figure has been translated into an additional charge to users of \$32.00 per lot per month which is substantially in excess of the present water rate.

In addition to the large rate increase to lot owners and users, special assessment bonds for 20 years at 9½% interest would be necessitated to pay for the installation cost. (See: Exhibit C). The Petitioner has also indicated that it is in financial trouble because of a \$60,000.00 debt (including \$35,000.00 owed to a contractor) incurred as a result of disputes and litigation which occurred during the recent completion of the installation of the centralized water system. (Pet. 2).

Accordingly, the Petitioner alleges that the economic burden of installing fluoride removal equipment is unreasonable because negligible public health benefits would accrue; the cost is prohibitive; the LSLSD has other heavy debt requirements; the rules pertaining to fluoride limits in drinking water may be changed in the future; and further property development would be curtailed (thereby reducing existing property values). (Pet. 3). The Agency does not dispute the Petitioner's cost figures and does not believe that public health will be endangered or environmental injury incurred if the Petitioner's variance request is granted. (Rec. 3).

On five occasions between December 20, 1982 and June 8, 1983, the Agency has taken water samples from the Petitioner's facilities. The Agency's analyses revealed that the fluoride concentrations in the finished water samples ranged between 2.54 mg/l and 2.66 mg/l (with the lowest concentrations being found in the most recent samples.) (Rec. 2).

The Agency notes that, although the requested 5 years variance will extend beyond the January 1, 1984 deadline for exemptions under Section 1416 of the Safe Drinking Water Act, the petition falls in line with recent cases in which the Board has granted 5 year variances to municipalities with 1,000 users or less. (Rec. 3; See: Village of Parkersburg, PCB 81-195, March 4, 1982 and Village of Kirkwood, PCB 81-111, December 3, 1981). Accordingly, the Agency has recommended that the Board grant the Petitioner's requested variance, subject to specified conditions.

Based upon these facts, the Board finds that denial of the requested variance would cause an arbitrary or unreasonable hardship upon the Petitioner and concludes that variance should be granted subject to the conditions recommended by the Agency, which were not objected to by the Petitioner.

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

ORDER

The Little Swan Lake Sanitary District is hereby granted a variance until August 18, 1988 from the 2.0 mg/l maximum allowable concentration of fluoride in finished water limitation of 35 Ill. Adm. Code 604.202 as it relates to the LSLSD public water supply, subject to the following conditions:

1. Beginning on or about six months from entry of Order, 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.

2. As expeditiously after identification of a feasible compliance method as is practicable, but no later than January 1, 1984, Petitioner shall submit to the Agency a program (with increments of progress) for bringing its system into compliance with fluoride standards.

3. Pursuant to §606.201 of Subtitle F, on or before November 18, 1983, or in its first set of water bills after the date of this Order, whichever first occurs, 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 a variance from the 2.0 mg/l maximum fluoride standard by the Pollution Control Board. The notice shall state the average content of fluoride in samples taken since the last notice period during which samples were taken.

4. Within 45 days of the date of this Order, the Little Swan Lake Sanitary District shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We) _____, hereby accepts and agrees to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 83-74 dated August 18, 1983.

Petitioner


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 18th day of August, 1983 by a vote of 5-0.



Christan L. Moffett Clerk
Illinois Pollution Control Board