

ILLINOIS POLLUTION CONTROL BOARD
May 28, 1981

CITY OF MINONK,)
)
) Petitioner,)
)
) v.) PCB 81-32
)
 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 City of Minonk (City) filed March 2, 1981. The City seeks variance from the 15 pCi/l gross alpha particle activity limitation of Rule 304(C)(1)(b) of Chapter 6: Public Water Supply. The Illinois Environmental Protection Agency (Agency) supports grant of variance in its Recommendation, filed April 1, 1981. Hearing was waived and none has been held, no objections requesting a hearing having been filed.

The City of Minonk, located in Woodford County, had earlier requested variance from the radiological quality standard. Variance was denied as unnecessary at that time, as the Agency had stated that it had no "reliable data base for radiological constituents" due to accuracy problems with its testing methodology. A 5-year variance from the fluoride standard was, however, granted (City of Minonk, PCB 80-136, October 2, 1980, p. 1-2).

The City has incorporated the prior record by reference, and further states that one accurate test result shows that the water in its distribution system shows gross alpha activity of 39.0 ± 11.8 pCi/l. Tests for radium have not been done.

The City reiterates its earlier assertion that it presently knows of no alternate source of water to replace its two deep wells, in spite of continuing investigations in search of replacement sources begun in 1946. It sees its only option as installation of a lime softening process at a capital cost of \$230,000, with operation and maintenance costs expected to be \$18,000 annually. This would result in an increase in monthly charges to its 910 users of \$5.00, bringing the total monthly charge for water and sewer service to \$17.00. The City asserts that the extent of this economic hardship is highlighted by considering that the charge was only \$6.00 15 months ago.

Finally, the City points out that the radium standard is currently under review by the USEPA. It states that if the standard for gross alpha particle activity was in fact raised to 90 pCi/l, that the City would be in compliance (but see Village of Lemont v. IEPA, PCB 80-48, April 30, 1981 citing testimony that the standard would more appropriately be raised to 30 pCi/l). It has observed no adverse health effects among its users traceable to consumption of its water.

The Agency does not challenge the City's facts and assertions. It recommends that variance be granted until January 1, 1984, the deadline date for "exemptions" under §1416 of the federal Safe Drinking Water Act (SDWA).

The Board finds that the City has proven that immediate compliance with the radiological quality standards would impose an arbitrary or unreasonable hardship. The Board believes that there will be little effect on the health of the City's users from drinking water at the City's gross alpha level if this variance is granted.

The Board again concludes that the period of variance relief is not limited to the deadline date for SDWA "exemptions." Lime softening as a treatment technique is no more "reasonably available (taking costs into consideration)" to the City's small system than was the fluoride removal techniques considered in PCB 80-136. The Board again finds that the City is entitled to variance relief consistent with §1415 of the SDWA, which provides for "variances" and which has no deadline. In the interests of the administrative convenience of all parties, variance from Rule 304(C)(1)(b) of Chapter 6 is granted until October 2, 1985, the date of expiration of the fluoride variance granted in PCB 80-136. The conditions of this variance are outlined in the attached Order.

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

ORDER

Petitioner, the City of Minonk, is granted variance from the gross alpha particle activity limitation of Rule 304(C)(1)(b) of Chapter 6: Public Water Supplies, until October 2, 1985 subject to the following conditions:

1. Petitioner shall, in consultation with the Agency, continue its sampling program to determine as accurately as possible the level of radioactivity in its wells and finished water. Testing for radium 226 and radium 228 shall be commenced.
2. Petitioner shall investigate the possibility and economic feasibility of a) developing additional water sources to be used to replace its well water

supply, and b) developing additional water sources to blend with its current well sources, to reduce the radiation level in its finished water. A report of its findings shall be submitted to the Agency on or before January 1, 1982.

3. In the event that replacement or blending is not feasible, petitioner shall communicate with the Agency at least every six months to determine whether landfill sites are available to accept wastes generated by the lime softening process.
4. 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 radiological quality standards.
5. Pursuant to Rule 313(D)(1) of Chapter 6, in its first set of water bills or within three months after the date of this order, whichever occurs first, 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 gross alpha particle activity standard by the Pollution Control Board. The notice shall state the average gross alpha particle activity level, including available results from samples taken since the last notice period.
6. 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:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-32, 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 were adopted on the 28th day of May, 1981 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board