

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1981

VILLAGE OF HANNA CITY,)
)
) Petitioner,)
)
) v.) PCB 80-206
)
) ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by J. Anderson):

On January 22, 1981, the Board adopted its Final Opinion and Order in this action, which in relevant part denied the petitioner's request for variance from the 15 pCi/l radiological quality standard of Rule 304(C)(1) of Chapter 6: Public Water Supply. Variance was denied, because the Board had not been advised as to the dates and accuracy of Agency tests for gross alpha particle activity.

On February 19, 1981, pursuant to Procedural Rule 333, the Agency moved the Board to modify its Order of January 22, 1981 to grant the requested variance. In support of its motion, which was accompanied by appropriate affidavits, the Agency stated that procedures to correct its radiological testing accuracy problems were "immediately carried out as of August 21, 1980, and the Agency has confidence in the test results after that date." An Agency reanalysis of a composite of prior quarterly samples of petitioner's finished water performed on August 27, 1980 and September 5, 1980 was also provided, which showed gross alpha particle activity of 24.7 ± 11.8 pCi/l.

Rather than putting the parties to the expense of initiating another, separate variance proceeding, the Board will modify its Order to grant the variance requested, particularly as no objections were made to the original petition and no hearing was held. Based on the especially burdensome costs of compliance to petitioner's 460 customers, and the lack of a demonstrated threat to the health of petitioners customers, the Board finds that arbitrary or unreasonable hardship has been shown. Variance from the 15 pCi/l gross alpha particle activity limit of Rule 304(C)(1) of Chapter 6: Public Water Supply. Variance, with conditions, is granted for approximately five years, rather than until January 1, 1984, for the reasons expressed in the main Opinion. For reasons of administrative convenience, this radiological quality variance shall expire January 22, 1986, the date of expiration of the previously granted fluoride variance.

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

ORDER

Paragraph 2 of the Board's Order of January 22, 1981 is hereby vacated, and the Order is hereby supplemented with the following additional paragraphs:

4. Petitioner, the Village of Hanna City, is also granted a variance from the 15 pCi/l gross alpha particle activity limit of Rule 304(C)(1) of Chapter 6: Public Water Supply until January 22, 1986, subject to the following conditions:

A. 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 228 shall be commenced.

B. Beginning on or about June 1, 1981, and at six month intervals thereafter, the Petitioner shall communicate with the Agency in order to ascertain whether radiological contaminant removal techniques specifically applicable to small systems have been developed and identified, and to learn which Illinois landfills, if any, are able to accept wastes generated by the lime softening process.

C. 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.

D. Pursuant to Rule 313(D)(1) of Chapter 6, on or before March 30, 1981 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 15 pCi/l maximum gross alpha particle activity standard. The notice shall state the average content of gross alpha particle activity in samples taken since the last notice period during which samples were taken.

5. Within forty-five days of March 5, 1981, 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 original Order of the Illinois Pollution Control Board of January 22, 1981 and the supplemental Order of March 5, 1981 in PCB 80-206, dated _____, understand and accept the said Orders, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Supplemental Opinion and Order was adopted on the 5th day of March, 1981 by a vote of 5-0.



Christian L. Moffett, Clerk
Illinois Pollution Control Board