

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1981

TRIVOLI PUBLIC WATER DISTRICT,)
)
) Petitioner,)
)
) v.) PCB 80-208
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter comes before the Board on the petition of the Trivoli Public Water District (Trivoli) filed November 12, 1980 as amended December 1, 1980. Trivoli seeks variance from the 2.0 maximum fluoride concentration limit of Rule 304(B) of Chapter 6: Public Water Supply. The Illinois Environmental Protection Agency (Agency) recommended a grant of variance with conditions on December 15, 1980. Hearing was waived and none was held.

Trivoli, which is located in an unincorporated area in Peoria County, delivers water with an average fluoride concentration of 3.85 mg/l to 105 homes and businesses. Trivoli was previously granted variance from the 2.0 mg/l fluoride limitation in PCB 79-198, 36 PCB 141 (November 15, 1979), which record has been incorporated in this action. Trivoli asserts that fluoride removal equipment will necessitate an initial capital expenditure of \$124,000, and an annual operating cost of \$2,900, "which is completely beyond [its] ability to pay at this time." Trivoli explains that it must repay the FmHA approximately \$123,000 loaned to it for the construction of its system, and that it already charges water rates substantially higher than surrounding communities to meet its current loan and operating expenses. Trivoli thinks it likely that if it is required to install fluoride removal equipment and to pass on the resulting costs, that some of its customers will discontinue receiving its service and return to use of their private wells. As Trivoli was formed to replace dependence on private shallow wells of questionable quality, it believes that disconnection from its service would prove a greater threat to the health of its customers than consumption of its water, since consumption of water with 3.85 mg/l fluoride has not been proven harmful.

The Agency concurs with all of the facts and beliefs presented by Trivoli, including its assertion that consumption of its water presents no danger to the public health of its customers. The Agency therefore supports a grant of variance until the deadline

date for exemptions under §1416 of the Safe Drinking Water Act (SDWA), §300(g)-5. This deadline was recently extended by Congress in PL96-502 from January 1, 1981 until January 1, 1984.

In its previous Opinions concerning variance requests from small public water supply systems such as Trivoli, the Board has granted full five year variances (e.g. City of Minonk, PCB 80-136, October 2, 1980, and cases cited therein at p. 3). The extension of the SDWA exemption deadline does not change the Board's previously expressed reasoning or result. The Board finds that Trivoli has demonstrated existence of an arbitrary or unreasonable hardship, and grants variance for a five year period, subject to the conditions in the attached Order.

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

ORDER

1. Petitioner, the Trivoli Public Water District, is granted a variance from the 2.0 mg/l maximum fluoride concentration limit of Rule 304(B) of Chapter 6: Public Water Supply for five years, subject to the following conditions:

A. 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 fluoride removal techniques specifically applicable to small systems have been developed and identified.

B. 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.

C. Petitioner shall take all reasonable measures with its existing equipment to minimize the level of fluoride in its water supply and shall not allow the fluoride concentration to exceed an average of 4.0 mg/l.

D. Pursuant to Rule 313(D)(1) of Chapter 6, on or before April 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 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.

2. 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 80-208, 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 5th day of March, 1981 by a vote of 50.



Christan L. Moffett, Clerk
Illinois Pollution Control Board