

ILLINOIS POLLUTION CONTROL BOARD
March 16, 1978

VILLAGE OF CARY,)
)
 Petitioner,)
)
 v.)
) PCB 77-339
 ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

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

Petitioner has requested a variance from the Drinking Water Standard for barium. The Petition claims hardship based upon an alleged lack of medical data to support the Board's present standard of 1.0 mg/l. Costs of compliance of \$650,000 capital and \$40,000 annual operating expense are quoted with no facts to show these costs to be excessive. Petitioner feels that more environmental damage from softened water would result from compliance than non-compliance. The Agency's Recommendation supports the Petition and recommends a variance until January 1, 1981. This 22-month period would allow the Agency to collect more data on the actual levels of barium in Petitioner's water supply and would provide time to wait for a change in Board and Federal drinking water standards.

The Board has addressed the barium standard in its recent decision in City of Crystal Lake v. EPA, PCB 77-332 (February 16, 1978). The Board stated in that case that variances from Board standards must be conditioned upon ultimate compliance unless arbitrary or unreasonable hardship can be shown. In this case, compliance is technically feasible and there is no demonstration of any disastrous economic effects. The Agency itself states that the additional expense would not be "overly burdensome" for the Petitioner.

The Federally-sponsored study on effects of barium in drinking water is not yet available and consequently is not in this record. It seems best to the Board to proceed slowly in matters involving public health.

It should be noted that the Board cannot grant relief from the Federal Standard which is also 1.0 mg/l. That standard became effective on June 24, 1977. Section 1415 (a) (1) (A) of the safe drinking water act provides that a state may grant temporary relief only after the Administrator of USEPA delegates primary enforcement responsibility under Section 1413 of that Act. No delegation of that authority has occurred to date.


Thus, because no compliance plan is given and no hardship proven and because material on medical effects is lacking, the Board must deny the variance.

This Opinion constitutes the Board's findings of Fact and Conclusions of Law in this matter.

ORDER

It is the Order of the Pollution Control Board that Petitioner's request for a variance from the drinking water standard for barium be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of March, 1978 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board