

retain the status quo such that there would be no change in stream quality. However, the Agency notes that the Village of Kincaid, which is approximately 40 miles downstream, uses the South Fork of the Sangamon for its water supply. In addition, as a result of a 1975 Agency biological survey, the Agency determined that the unbalanced condition which existed at three stations on Big George Creek could have been partially attributable to the City's effluent.

Nevertheless, the Agency recommends that the variance be granted. This recommendation appears to be based largely on the fact that the Agency has proposed to modify the effluent standard for fecal coliform in such a manner that the City would no longer be required to disinfect (R77-12; Docket D). A Board decision on this matter is expected in the near future.

While the Board must reject the City's argument that the status quo will be maintained (since that does not, by itself, insure that the environment will be protected) and will not prejudice a regulatory proceeding in a variance case, the Board does find that a failure to grant the requested variance would impose an arbitrary and unreasonable hardship. Since the City appears to be expeditiously pursuing upgrading through a construction grant and operation is expected by July, 1982, any environmental harm should be minimal. This is especially true for the following reasons: there are few downstream recreational uses; the nearest downstream public beach is over 60 miles away; Kincaid's public water supply intake should be affected minimally, if at all; and the term of variance will largely fall during the cold weather months when any recreational uses should be at a minimum. This harm is more than outweighed by the approximately \$75,000 which would be lost from the grant funding if the City were ordered to immediately put disinfection facilities in place.

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

ORDER

It is hereby ordered that the City of Assumption be granted a variance from the 400/100 ml fecal coliform limitation of Rule 405 of Chapter 3: Water Pollution, subject to the following conditions:

1. The variance shall expire on July 31, 1982 or upon the start-up of operations of the proposed wastewater treatment plant, whichever occurs first;

2. The Agency is hereby ordered to delete the 400/100 ml fecal coliform effluent limitation from NPDES Permit No. IL0020907; and

3. Within thirty (30) days of the date of this Order, the City shall execute and send to Steven M. Spiegel, Attorney

Advisor, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a Certification of Acceptance by which it agrees to be bound by all the terms and conditions of this variance. This thirty (30) day period shall be held in abeyance for any period for which this matter is appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____, having read and fully understood the Order of the Illinois Pollution Control Board, PCB 81-103, hereby accept that Order and agree to be bound by all terms and conditions thereof.

Signed

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 22ND day of October, 1981 by a vote of 5-0.

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