

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1990

CITY OF WENONA,)
)
 Petitioner,)
)
 v.) PCB 90-48
) (Provisional Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (J. Anderson):

This matter comes before the Board on receipt of an Agency Recommendation dated April 11, 1990. The recommendation refers to a request from Petitioner, City of Wenona for a provisional variance from the 5-day biochemical oxygen demand (BOD₅), suspended solids (TSS), and fecal coliform effluent limitations, as set forth in 35 Ill. Adm. Code 304.120(a) and 304.141(a), for the period from the initiation of diversion of wastewater flows from the City wastewater treatment facility primary lagoon to the secondary lagoon, and continuing to the earlier of the return to service of the lagoons or the expiration of 45 days.

Upon receipt of the request the Agency issued its recommendation, concluding that the failure to grant the requested provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

The City of Wenona operates a wastewater treatment facility that discharges 0.16 million gallons per day of treated effluent to Sandy Creek, which discharges to the Illinois River. The facility consists of a main lift station, a primary lagoon, a secondary lagoon, and a chlorination system. The present effluent limitations are 30 mg/l BOD₅ (monthly average), 37 mg/l TSS (monthly average), and 400 colonies/ml fecal coliform (daily maximum).

The City must repair and upgrade its lagoons. The City must divert flows around its primary lagoon to its secondary lagoon to effect repairs to its primary lagoon, then it must divert flows back to its primary lagoon for storage to effect cleaning of its secondary lagoon. The City will have only one lagoon out of service at any given time during repairs. The estimated effluent BOD₅ content will be 33.4 mg/l, and the estimated TSS will be 39.3 mg/l, during repairs.

The Agency recommends that the Board grant the requested provisional variance with conditions. The Agency concurs with the City that the anticipated environmental impact of the

requested provisional variance would be minimal. The Agency is unaware that the grant of a provisional variance would adversely impact a public water supply. (The nearest downstream water intake is Peoria Water Co., 45 miles down stream.) The Agency states that the denial of this provisional variance would impose a hardship on the City, in that the City would then be forced to construct a temporary lagoon at significant cost to effect the repairs.

The Board notes that Agency Condition #5 provides, at the Agency's total discretion, for a potentially unappealable, prospective denial determination. Such an authority is contrary to the Act in terms of unlawful delegation and appeal rights, and could prematurely terminate the variance contrary to the Board's Order. In the interests of expedited resolution of the problem, we have changed the language to "in consultation with the Agency."

In light of the Agency Recommendation, the Board hereby grants a provisional variance from the BOD₅, TSS, and fecal coliform effluent limitations of 35 Ill. Adm. Code 304.120(a) and 304.141(a), provided:

1. The term of this provisional variance will commence on the day the City first initiates diversion of wastewater flows from its primary lagoon to the secondary lagoon and shall continue until the expiration of 45 days, or until the City returns both lagoons to service, whichever occurs first;
2. The City shall limit its effluent BOD₅ concentration to 40 mg/l and its TSS concentration to 45 mg/l (monthly averages);
3. The City shall notify Tom Meyer of the Agency's Peoria Region office by telephone, at 309-693-5463, when the diversion of flows from the primary lagoon begins and when both lagoons are returned to service;
4. The City shall, within 5 days, forward to the Agency written confirmations of the notifications made under condition 3, addressed as follows:

Illinois Environmental Protection Agency
 Division of Water Pollution Control
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276
 Attn: Compliance Assurance Section

5. The City shall dispose of the contents of its lagoons

in consultation with the Agency;

6. The City shall operate its wastewater treatment facility in a manner that will assure that it achieves the best effluent quality practicable;

7. The City shall perform all necessary repair work as expeditiously as possible and in a manner that minimizes the time that the lagoons are out of service; and

8. The City shall execute and forward a Certificate of Acceptance and Agreement within 10 days of the date of this Order to Mr. Mark T. Books at the address specified in condition 4, and that Certificate shall take the following form:

CERTIFICATION

I (We), _____,
hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 90-48, dated April 12, 1990.

Petitioner

Authorized Agent

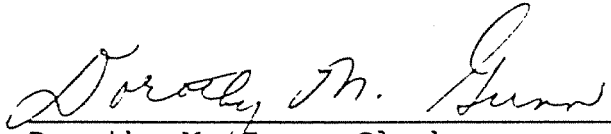
Title

Date

IT IS SO ORDERED.

Board Members B. Forcade and R. Flemal concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 12th day of April, 1990, by a vote of 11-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board