

ILLINOIS POLLUTION CONTROL BOARD
JUNE 20, 1986

CITY OF JOHNSTON CITY,)
)
 Petitioner,)
)
 v.) PCB 86-52
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 RESPONDENT.)

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

This matter comes before the Board upon an April 15, 1986 Petition for Variance filed on behalf of the City of Johnston City (City). The City seeks relief from 35 Ill. Adm. Code 309.241: Standards for Issuance to allow the connection of 142 homes to the City's sewer system. Hearing in this proceeding was waived and the Illinois Environmental Protection Agency (Agency) filed its recommendation on May 16, 1986, recommending that the variance be granted, with conditions.

The City owns and operates a wastewater treatment plant (WWTP) which consists of a terminal pumping station with comminutor, a bar screen and a single cell waste stabilization pond. The WWTP has a design capacity of 0.4117 million gallons per day (MGD) and discharges, pursuant to an NPDES permit to Lake Creek, a tributary to the Big Muddy River. (Pet. p. 2-3). The City seeks relief from having its sewer system placed on Restricted Status by requesting variance from 35 Ill. Adm. Code 309.241 to allow the Agency to issue the City a Construction and Operating Permit to connect an additional 142 homes to the City's sewer system. The issue before the Board is whether denying the City variance would impose an arbitrary or unreasonable hardship on the City. The Board determines whether an arbitrary or unreasonable hardship imposed by denying the variance against the environmental harm experienced by granting the variance. For the following reasons, the Board finds that denying the City variance would constitute an arbitrary or unreasonable hardship and, therefore, grants the City variance subject to conditions.

Environmental Impact

The City asserts that by granting the requested variance, the Board would be eliminating an existing public health hazard which is a result of failing private sewage disposal systems. The City also asserts that the Illinois Department of Public Health and the Franklin-Williamson Bi-County Health Department

surveyed the sewage disposal problems in the City and concluded that:

"... residences utilize private sewage disposal systems that due to soil which has poor seepage characteristics, and a seasonal high water table, routinely malfunction, discharging to the ground surface. The liquid discharge is not properly treated, has a high organic content, could be the source of transmission of a broad range of enteric diseases, and provides an ideal breeding area for the type mosquito which transmits encephalitis."

The survey concluded that the best long-term solution to the problems is to develop a sewerage project for this area. (Pet. p. 16). The Agency agrees and asserts that soil conditions in southern Illinois are not conducive to the use of septic tanks and seepage fields. The soils are generally hard clay or thin layers of top soil underlain with limestone. As a result, provision of sewers is the method preferred by county and state public health officials. (Rec. p. 4). Based on this information, the Board finds that the environmental impact of granting the City variance is minimal.

Hardship:

The City asserts that it has been diligently pursuing compliance with the final effluent limitations of its NPDES permit. The City has a Step II/III grant allocated to them which will be utilized to construct an activated sludge plant with excess flow facilities and filters with a design average flow of 0.55 MGD. Construction is scheduled to begin in December with final operation expected by July 1, 1988. The Agency opines that the City will probably lose its grant if the variance is denied or if the City was allowed to construct the sewer but not connect the homes to the sewer system. (Rec. p. 5).

The Board finds that denying the City variance from 35 Ill. Adm. Code 309.241 would impose an arbitrary or unreasonable hardship on the City. The public health ramifications of the present septic systems serving the 142 homes are serious. If the Board were to deny variance then the City would probably lose its grants (which are variously listed as \$200,000 to \$700,000) clearly setting the City back in achieving compliance with the final effluent limitations of its NPDES permit. The Board notes that extending sewer service to the 142 homes is the most economical and environmentally sound alternative to the City's serious problem of failing private disposal system. The Board will require that the City complete its WWTP upgrade as expeditiously as practicable with the ultimate goal being

achievement of the final effluent limitations by July 1, 1988. Also, the Board will require that the City operate its wastewater treatment facilities in a manner so as to minimize adverse environmental impacts.

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

ORDER

The City of Johnston City is hereby granted variance from 35 Ill. Adm. Code 309.214, subject to the following conditions:

1. Variance shall run from June 20, 1986 to July 1, 1988.
2. The City may connect to its sewer system the 142 homes discussed in the Petition but no other connections may be made.
3. The City shall operate its wastewater treatment facilities so as to minimize adverse environmental impacts.
4. The City shall complete its wastewater treatment plant upgrade and expansion project as expeditiously as practicable.
5. The City's upgraded treatment plant shall meet final effluent limitations by July 1, 1988.
6. Within 45 days of the date of this Order the City shall execute and send to:

Illinois Environmental Protection Agency
Attention: James Frost
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
Springfield, IL 62706

a certification of acceptance of this variance by which it agrees to be bound by its terms and conditions.

7. This 45 day period will be held in abeyance for any period during which this matter is being appealed. The form of the Certification shall be as follows:

CERTIFICATION

The City of Johnston City hereby accepts and agrees to be bound by all the terms and conditions of the Order of the Illinois Pollution Control Board in PCB 86-52, dated June 20, 1986.

City of Johnston City

by: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of June, 1986 by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board