

ILLINOIS POLLUTION CONTROL BOARD  
January 24, 1985

CITY OF TUSCOLA, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 84-146  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This matter comes before the Pollution Control Board (Board) upon the Amended Petition of the City of Tuscola (City) requesting extension of a previous variance granted by the Board on May 29, 1984 and terminating August 31, 1984 (PCB 83-77). The instant variance petition was filed August 31, 1984 and amended on October 26, 1984. The City seeks extension of its variance to January 7, 1985 from the requirements of 35 Ill. Adm. Code 304.120(c) (deoxy-generating waste and suspended solids), 304.105 as it relates to 302.205 (phosphorus), and 302.212 (ammonia nitrogen and un-ionized ammonia) and 306.305 (treatment plant bypasses). The Illinois Environmental Protection Agency (Agency) filed its recommendation on November 29, 1984 that the extension be denied. The City waived hearing and none has been held. The Agency and the City have joined in stipulating to incorporation of the record from PCB 83-77 into this current proceeding.

Tuscola is located in Douglas County, Illinois, and has a population of approximately 4600. The City owns and operates two sewage treatment plants. The South Plant is 20 years old and employs primary sedimentation and conventional activated sludge treatment. It is designed to handle approximately 0.56 million gallons per day (MGD) but receives only 0.2 MGD. This creates an organic underload resulting in poor settling of solids. Discharge monitoring reports indicate that the plant exceeded its interim effluent limitations for biochemical oxygen demand (BOD) of 20 mg/l in April and March of 1984. Discharge from the South Plant is to Scattering Fork Creek, which feeds into the Embarras River. Downstream, water from the Embarras is pumped into a side channel reservoir by the City of Charleston. Charleston uses this reservoir as a public water supply and for recreational purposes.

The North Plant was built in 1938 with a design capacity of 0.28 MGD. It employs secondary treatment consisting of an Imhoff tank, trickling filter and sedimentation tank with sludge drying

beds. During excess wet weather flows, however, the Imhoff tank is overloaded, sludge solids cannot be properly handled and flow bypasses this plant. Discharge is to the Hayes Branch, to the Hackett Branch, to Scattering Fork Creek 3.2 miles downstream from the South Plant outfall, and finally to the Embarras River.

The City requests an extension of its variance to allow it to review the information developed in an engineering report outlining four wastewater alternatives. The City contends that it will suffer great hardship if required to select an alternative without additional time to review the information generated by its engineers. The Agency contends that any hardship suffered by Tuscola is self-imposed and cannot serve as the basis for granting a variance.

The City has been in the Construction Grants Program for upgrading its wastewater treatment plants since 1974. Its original compliance plan was to close the North Plant, reroute its wastewater to the South Plant and to employ tertiary treatment, nitrification and phosphorus removal there. It was estimated that these improvements would cost the City approximately six million dollars. Tuscola proposed a site-specific rule change (R83-23), however, to allow construction of a lower cost alternative adequate to protect public health and the environment. Concurrently, the City petitioned for a variance from effluent limitations. Following hearings in both proceedings, the site-specific proceeding was stayed (by Board order on April 5, 1984) to allow the City and the Agency to determine whether there existed an affordable treatment alternative which would also comply with effluent limitations. Identification of such an alternative would obviate the need for site-specific relief. In the interim, the Board granted a short-term variance to allow for this re-evaluation with the express requirement that a final compliance plan be submitted on August 31, 1984. The stay in the site-specific proceeding expired on August 6, 1984 and the variance terminated on August 31, 1984.

The City failed to submit a compliance plan by the August 31, 1984 deadline. No specific reasons for this failure were given. The Agency apparently received an engineering report on October 24, 1984 outlining four wastewater treatment alternatives for the City. In an accompanying cover letter, the City's mayor purported to commit the City to the least expensive alternative which involves closing the North Plant, pumping its wastewater to the South Plant and employing secondary treatment by activated sludge at the South Plant. The mayor's commitment, however, was expressly contingent on receipt of 55% grant funding. This funding is no longer available to the City, according to the Agency, because of limited appropriations for wastewater facility construction grants. As noted in the Board's opinion in PCB 83-77, the City's failure to proceed in a timely fashion disqualified it for 75% federal grant funding and was directly related to the prior City administration's opposition to the passage of two bond referenda.

It now appears that further delay has resulted in the loss of funding at 55% levels. Nevertheless, the City admittedly intends to proceed only if funded and demonstrates no intent to achieve timely compliance should the grant funding fail to materialize.

Furthermore, the City's preferred option is inadequate in that it requires a grant of site-specific relief. Reliance on the grant of site-specific relief is wholly speculative and as previously stated by the Board "[a] compliance plan cannot be based solely upon the assumption that the regulations will change. Village of Sauget and the City of East St. Louis v. IEPA, 41 PCB 255, 256, PCB 80-176 (April 16, 1981). If site-specific relief is denied, the City has not provided any means or time schedule for achieving full compliance with the Act and regulations. Even if such relief were warranted, the City has failed to go forward with the regulatory proceeding in a timely fashion. The stay in the site-specific proceeding expired on August 6, 1984 and no further action has been taken.

The Board finds that the City has significantly delayed compliance without adequate explanation and that any hardship suffered is self-imposed. Although Tuscola contends that its present discharge does not significantly impact the receiving stream or downstream water, the Board notes that no data were submitted in connection with the instant petition and very limited data were submitted in connection with the original petition. In the original PCB 83-77 proceeding, data were presented from only one sampling date for the receiving stream of the South Treatment Plant and no data were set forth for the receiving stream of the North Treatment Plant. In the original proceeding the Board found a lack of additional environmental impact referring only to the short period of the variance. At that time, there was a stated need for design re-evaluation so as to justify granting a variance. The City has now apparently identified four design alternatives and their capital costs, but the mayor's contingent commitment is wholly inadequate to ensure the timely compliance called for by the Act and regulations.

The Board therefore denies the City's request for an extension of its variance from 35 Ill. Adm. Code 304.120(c), 304.105 as it relates to 302.205 and 302.212, and 306.305.

This opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

#### ORDER

The City of Tuscola is hereby denied a variance for its North and South treatment plants from 35 Ill. Adm. Code 304.120(c), 304.105 as it relates to 302.205 and 302.212, and 306.305.

IT IS SO ORDERED.

Chairman J. D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Order was adopted on the 24<sup>th</sup> day of January, 1985 by a vote of 5-0.

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