

ILLINOIS POLLUTION CONTROL BOARD
May 19, 1983

LEWIS UNIVERSITY,)
)
) Petitioner,)
)
) v.) PCB 82-138
)
) ILLINOIS ENVIRONMENTAL)
) PROTECTION AGENCY,)
)
) Respondent.)

OPINION AND ORDER OF THE BOARD (by W.J. Nega):

This matter comes before the Board upon a petition for variance from 35 Ill. Adm. Code 312.101 filed by Lewis University on December 6, 1982, as amended January 12, 1983 and February 25, 1983. Lewis University seeks variance to allow its wastewater treatment plant (WWTP) to be operated by a Class 4 operator. The Illinois Environmental Protection Agency (Agency) filed a Recommendation on April 15, 1983 which recommended that variance be denied.

On May 2, 1983, the Petitioner filed a response to the Recommendation containing additional information which provided details on the current efforts of its operator to upgrade his rating (by taking the Class 3 Wastewater Operator examination scheduled for June 7, 1983) and included a recent financial report on the precarious financial situation of the college. (See: Exhibits A and B). No hearing has been held on this matter.

Lewis University is located near Route 53 in Romeoville, Will County, Illinois. The college is the permanent residence for 45 Christian Brothers; employs about 250 people; and houses 750 students (for an eight month period during the school year).

The WWTP includes a comminutor, an aerated splitter box, secondary clarifier, three contact stabilization units, a sludge holding tank, and chlorination. Raw sewage entering the facility passes through the comminutor and into an aerated division splitter box which divides the flow among three 38,333 gallon/day contact stabilization units operating in parallel. Effluents from the clarifier are combined in a chlorine contact tank and subsequently discharged via an effluent tile. Sludge is first aerobically digested and then stored in a sludge holding tank until removed.

The WWTP is designed to serve a P.E. of 1,150; has a design average flow of 0.115 million gallons per day; and discharges to an unnamed tributary of the Des Plaines River.

Lewis University was issued NPDES Permit No. IL 0047589 on January 13, 1981 which became effective on February 12, 1981 and will expire on October 19, 1983. This NPDES Permit limits the Petitioner's discharge of BOD to 10 mg/l and of TSS to 12 mg/l as 30 day averages. Discharge monitoring reports for the period of September, 1981 through September, 1982 show general non-compliance with the NPDES permit limitations for BOD and TSS. Agency sampling on various occasions between October 10, 1981 and January 4, 1983 confirms that noncompliance occurred. (Rec. 3). Moreover, the Petitioner failed to file any discharge monitoring reports for the months of October, 1981; November 1981; December, 1981; June, 1982; July, 1982; August, 1982; and September, 1982.

In addition to excursions for BOD and TSS, monitoring and reporting excursions from Petitioner's NPDES Permit limitations on ammonia nitrogen and fecal coliform have occurred during this time period. Furthermore, the Petitioner failed to take any samples for BOD, TSS, fecal coliform and ammonia nitrogen from September, 1982 through January, 1983. In a letter to the Agency from the WWTP operator dated February 21, 1983, it was indicated that the failure to take the requisite samples was a result of a "lack of communication." (Rec. 2-3).

From December 1, 1981 through August of 1982, Lewis University's WWTP was under the supervision of an Agency-approved, properly certified operator who was hired on a contractual basis by the college. After the resignation of this properly certified operator, the WWTP has been operated by two Class 4 operators.

The operator in question, Mr. Robert B. Bland, Jr., was hired by Lewis University on August 17, 1981 to operate the WWTP on weekends and at night. Mr. Bland received his Class 4 Certificate of Technical Competency on August 3, 1982 and was moved to the day shift by the Petitioner in December of 1982.

In its response to the Recommendation, the Petitioner included its December 7, 1982 financial report which indicated that it experienced financial losses in 4 of the past 5 years. Moreover, Lewis University presently has a total indebtedness of \$10,058,000.00 (which includes a plant fund indebtedness of \$7,309,000.00 plus an unrestricted current fund deficit of \$2,749,000.00) and an operating budget of \$11,522,100.00. Thus, the Petitioner asserts that a denial of the requested variance would result in a severe financial burden on the college.

The Agency recommended that the Board deny the requested variance and emphasized that: (1) Mr. Bland had other assigned duties which restricted him from properly operating and maintaining the WWTP; (2) Mr. Bland failed to advance through the Agency's certification program and failed to sign up for the Class 3 exam;

and (3) the Petitioner did not submit a report as to its financial condition so as to justify its alleged financial hardship. However, the new information submitted by the Petitioner on May 2, 1983 addresses the Agency's primary concerns in these areas. Thus, it now appears that Mr. Bland has been assigned to the WWTP full time; that the monitoring and reporting pertaining to effluent parameters should improve; and that the NPDES Permit limitations for BOD, TSS, fecal coliform, and ammonia nitrogen will be met. Moreover, the recently filed report on the financial condition of the college does indicate that the Petitioner is currently in financial trouble.

Based upon these facts, the Board finds that denial of the requested variance would cause an arbitrary or unreasonable hardship upon the Petitioner and concludes that variance should be granted, subject to various conditions. The Board will therefore grant Lewis University a variance from 35 Ill. Adm. Code 312.101 to allow its wastewater treatment plant to be operated by a Class 4 operator.

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

ORDER

Lewis University is hereby granted a variance from 35 Ill. Adm. Code 312.101 to allow its wastewater treatment plant to be operated by a Class 4 operator until December 31, 1983, subject to the following conditions:

1. Mr. Bland shall take the Class 3 Wastewater Operator examination scheduled for June 7, 1983;
2. Lewis University shall promptly file all necessary discharge monitoring reports; take all the requisite samples; and exert its best efforts to comply with its NPDES Permit limitations for BOD, TSS, fecal coliform, and ammonia nitrogen and promptly report any excursions to the Agency;
3. Within 45 days of the date of this Order, Lewis University shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We) _____,
hereby accepts and agrees to be bound by all terms and conditions
of the Order of the Pollution Control Board in PCB 82-138,
dated May 19, 1983.

Petitioner

Authorized Agent

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 19th day of May,
1983 by a vote of 4-0.

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