

ILLINOIS POLLUTION CONTROL BOARD
July 6, 1978

CITY OF PANA,)
)
 Petitioner,)
)
 v.) PCB 78-145
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter comes before the Board on a Petition filed on May 17, 1978, by the City of Pana for a permanent variance from Rules 203(c), 402 and 404(f)(ii)(A), all of Chapter 3: Water Pollution, of the Board's Rules and Regulations, as those Rules apply to phosphorus. The Environmental Protection Agency filed a Recommendation on June 16, 1978, which recommended that the variance be denied, or in the alternative, that it be granted for a period of five years subject to certain conditions. No hearing was held; the City of Pana waived hearing in the Petition and made no request pursuant to Rule 406 of the Board's Procedural Rules on receipt of the Agency Recommendation.

Section 36(b) of the Environmental Protection Act authorizes the Board to grant variances for a period of time not to exceed five years; the Petitioner in requesting a permanent variance seeks relief which the Board is not authorized to grant, Monsanto v. PCB, 367 N.E.2d 684 (1977). The Board will also dismiss the request for a variance from Rule 404(f)(ii)(A) as unnecessary since the grant of relief from Rule 203(c) would remove any phosphorus water quality violation from consideration for a Pfeffer exemption under Rule 404(f)(ii).

The City of Pana, Christian County, Illinois, owns and operates a 0.70 MGD wastewater treatment facility consisting of a primary clarifier, trickling filter, secondary clarifier, chlorine contact tank, anaerobic digesters and sludge drying beds (Pet. p3). The existing facilities operate under an NPDES Permit, No. IL 0022314, as modified by a USEPA Enforcement Compliance Schedule Letter establishing interim effluent concentration limitations of 30 mg/l of BOD₅ and 50 mg/l of suspended solids (Rec. p3).

The City of Pana has completed a Facilities Plan and a Sewer System Evaluation Survey under a Federal Step 1 grant awarded October 22, 1975 (Rec. p2). The City proposes the construction of a new advanced wastewater treatment facility and to phase out the existing facility on completion of the new plant (Pet. p3). The proposed facility will discharge to Coal Creek, approximately 50 stream miles above Carlyle Lake.

Because the concentration of phosphorus in Carlyle Lake exceeds the standard of Rule 203(c), the application of Rules 203(c) and 402 to the proposed facilities of the City of Pana would establish a phosphorus effluent concentration limitation of 0.05 mg/l from the plant. Petitioner concludes that removal of phosphorus to a concentration of 0.05 is technologically and economically unfeasible for the average community (Pet. p3); the Agency believes that such removal is technically feasible but economically unreasonable (Rec. p4).

The Board is familiar with the problems facing dischargers in meeting the 0.05 mg/l phosphorus limitation. City of Hoopston, PCB 76-234, 24 PCB 441; Southern Illinois University at Edwardsville, PCB 77-111, 25 PCB 775; Valley Water Company, Inc., PCB 77-146, 25 PCB 289.

In those, and a number of other cases, the Agency and the Board have recognized that it is not economically feasible for the petitioners therein to comply with an effluent concentration of 0.05 for phosphorus. In further recognition of this difficulty, the Agency has petitioned the Board in R76-1 for appropriate amendments to the phosphorus effluent limitations and water quality standards of Chapter 3. If the amendments proposed in R76-1 were adopted without change, the City of Pana would be required to treat its effluent to meet a phosphorus effluent concentration limitation of 1.0 mg/l since the facilities will serve a population equivalent greater than 1500 (Rec. p3).

Petitioner has included provisions for removal of phosphorus to an effluent concentration of 1.0 mg/l in the design criteria for the proposed treatment facility (Pet. p3) but argues that since the cost of phosphorus removal to 1.0 mg/l exceeds any environmental benefits, to require any phosphorus removal in the proposed facility would constitute an arbitrary and unreasonable hardship (Pet. p4-6). The Agency does not feel that the justification supports the relief requested and recommends that this request be denied (Rec. p1). Although the impact of the Petitioner's discharge of phosphorus on Carlyle

Lake appears to be minimal (Pet. p4-5) the Petition is silent regarding the impact of such discharge on the intervening receiving waterways.

Because of the pendency of R76-1, including the economic impact study and subsequent economic impact hearings, and for the reasons stated above, the Board will not and cannot grant Petitioner relief from an effluent limitation which has only been proposed to the Board and which has not yet been fully heard. The Board will welcome the participation of the City of Pana in R76-1.

Based upon the foregoing, the Board will grant to the City of Pana the same measure of relief during the pendency of R76-1 that has been granted to other petitioners facing similar problems because of the application of Rules 203(c) and 402. The Petitioner will be required to include provisions for removal of phosphorus from the effluent of the proposed plant to a concentration of 1.0 mg/l for the period of the variance granted herein.

Pursuant to Rule 914, the Board will direct the Agency to modify NPDES Permit No. IL 0022314 consistent with the Opinion and Order herein including such interim effluent limitations as may reasonably be achieved through the application of the best practicable operation and maintenance practices in the existing facilities.

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

ORDER

1. The Village of Pana is granted a variance for the operation of its wastewater treatment plant from Rules 203(c) and 402 of Chapter 3: Water Pollution Rules and Regulations regarding phosphorus until July 6, 1983, subject to the following conditions:

- a) This variance will earlier terminate upon adoption by the Board of any modification of the existing phosphorus water quality standards and effluent limitations and the Village shall comply with such revised regulations when adopted by the Board.
- b) Petitioner shall provide space in its design for storage of chemicals, and for mixing and dosing equipment capable of meeting a phosphorus effluent concentration of 1 mg/l, or to whatever alternative level may be established by the Board.

- c) In the event that grant funds become available during the period of this variance, the Village shall incorporate in any design and specification adequate provision for the installation of equipment for the removal of phosphorus which will provide the best practicable treatment technology for the removal of phosphorus over the life of the works.

2. The Petition for Variance from the phosphorus requirements of Rule 404(f)(ii)(A) in Chapter 3: Water Pollution Regulations, is hereby dismissed.

3. Petitioner, within 30 days of the date of this Order, shall request Agency modification of NPDES Permit IL 0022314 to incorporate all conditions of the variance set forth herein.

4. The Agency, pursuant to Rule 914 of Chapter 3, shall modify Petitioner's NPDES permit consistent with the conditions set forth in this Order including such interim effluent limitations as may reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

5. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be stayed during judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 78-145, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 6th day of July, 1978 by a vote of 4-0.

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