



The Agency's opposition to granting the variance is based on Salem's continued violations of its NPDES effluent limitations for BOD and suspended solids. The Agency has not yet certified an SSES for Salem, but notes that Salem's grant priority number will make Salem eligible for Step III funding. However, the Agency notes, Salem has not indicated in its petition that the discharge from the proposed bypass would meet the effluent limitations for secondary treatment as required by Section 301(b)(1)(B) of the Federal Water Pollution Control Act (FWPCA).


The Board agrees with the Agency that Salem has failed to demonstrate compliance with FWPCA requirements. Since the Board is limited by Section 35 of the Illinois Environmental Protection Act to granting variances within the confines of standards set by the FWPCA, the Board cannot grant the requested variance unless Salem can show compliance with Federal standards. See, City of Springfield v. EPA, PCB 77-185, December 8, 1977. The Board also notes that Salem failed to provide information on the downstream effects of its proposed bypass. For these reasons, the Board dismisses Salem's petition without prejudice.

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

ORDER

It is the Order of the Pollution Control Board that the Petition for Variance filed by the City of Salem be dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24<sup>th</sup> day of August, 19 78 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Bo