ILLINOIS POLLUTION CONTROL BOARD August 24, 1978

CITY OF SALEM,)
Petitioner,)
v.) PCB 78-16
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

The City of Salem (Salem) filed its Petition for a Variance from Rule 602(b) of Chapter 3: Water Regulations on June 6, 1978. On July 6, the Board denied the Agency's request that this proceeding be consolidated with an enforcement proceeding filed by the Agency against Salem (PCB 78-137). The Agency filed its Recommendation advocating denial of the variance on July 25, 1978. Salem has waived its right to a hearing in this matter.

Salem is a muncipality of approximately 7,300 people located in Marion County. Salem's sewage treatment plant is a contact stabilization variation of the activated sludge process followed by rapid sand filters and chlorination. Under normal operating conditions (no rainfall), the plant discharges less than 10 mg/l BOD and 12 mg/l suspended solids into Town Creek, a tributary to Crooked Creek, a tributary to the Kaskaskia River. Upon a rainfall of one inch or more, the plant becomes flooded and fails to meet its effluent standards. During the flooding period, the flow exceeds 5 MGD which is twice the plant's rated capacity. The flooding picks up high solids sludge from the plant and washes it to the creek. Often it takes a period of two weeks for the plant to regain treatment efficiency.

Salem requests the variance in order to construct a bypass which would carry the excess flow during flooding, with at least minimal chlorination, directly to the creek. Salem feels that this immediate control method is needed because of the potential hazards created by flooding. In the meantime, Salem is awaiting approval of its I and I Study, which indicates the need for a Sewer System Evaluation Study (SSES). Funds for testing and construction dictate a schedule of completion in 1980.

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, Ch	ristan L. M	offett, Cler	of the Illinoi	s Pollution Control
	eby certify	the above Or	inion and Order	were adopted
on the 24	n day	of Duguet		by a vote
of <u>\$ -0</u>				

Christan L. Moffett, Clerk
Illinois Pollution Control Bo