

ILLINOIS POLLUTION CONTROL BOARD
April 27, 1978

FOX VALLEY GREASE COMPANY,)
)
 Petitioner,)
)
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY,) PCB 77-179
)
 Respondent.)

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

This case comes before the Board as an appeal of a permit denial. On February 8, 1977 the Agency received an application from Petitioner for a permit to install an air flotation unit and a permit to operate existing wastewater treatment facilities included in the air flotation unit. The permit application pertained to Petitioner's grease rendering plant located near Huntley, Illinois in McHenry County. The application was amended to correct errors in calculations in a letter dated February 28, 1977. On March 1, 1977 the Agency responded that the application was incomplete and that additional data would have to be submitted before the requested permits could be issued. In a letter dated March 21, 1977 Petitioner commented on the Agency's findings in its letter dated March 1, 1977. In a letter dated June 7, 1977 the Agency denied the request for the subject permits. On June 30, 1977 Petitioner filed an appeal of the Agency's decision. On July 15, 1977 The Agency filed the record of the permit application. The record was supplemented on July 27, 1977. A hearing was held on January 10, 1978 at the McHenry County Courthouse in Woodstock, Illinois.

At the outset it should be clearly noted that the sole issue in this case is whether or not the record submitted by the Agency in this case supports its decision. At the request of Petitioner, the Agency filed a series of documents on December 21, 1977 relating to prior applications submitted by Petitioner. At no time did the Agency state that these documents supported its decision. Consequently, the record in this case shall be viewed as the July 15 and July 27, 1977 submissions exclusively.

The Agency felt that the technical specifications for the air flotation unit were lacking in detail. Rule 957 of Chapter 3: Water Pollution specifies the amount of detail which is required. Petitioner felt that it had provided

all the necessary information in prior permit applications and that it should not be required to do so again. Petitioner described the nature and volume of the wastewater to be treated by referring to levels of BOD, suspended solids and oil and grease. The Agency stated that there should be an analysis of ammonia, total dissolved solids, iron, phosphorus, fecal coliform and pH since these contaminants were probably present in Petitioner's waste stream. The Board finds that the Agency's concerns in this regard are well founded. The Board has promulgated standards which govern the maximum permissible levels of these contaminants in ground water. Since Petitioner's proposed wastewater treatment system contemplates subsurface disposal of its treated effluent, there must be adequate assurance that the Board's standards for ground water protection will not be violated.

Petitioner stated that it had no information which would indicate that any of the ground water in the vicinity of its site was being contaminated. Rule 962 of Chapter 3 states that the Agency shall not issue any permit unless compliance with the Act and the Board's standards is demonstrated. Consequently, the burden is on the Petitioner to supply this information. The Agency's position that monitoring wells be installed around the perimeter of Petitioner's wastewater lagoon is justified and it was reasonable on the Agency's part to deny the requested permits since it lacked this information.

In its application Petitioner submitted estimates of the strength of its wastewater. The Agency stated that the estimates were inadequately documented and that actual analyses should have been submitted instead. Petitioner felt that it was being placed in an untenable situation because certain in-plant changes had occurred since its wastewater was subjected to treatability studies and that therefore it did not have the data available to it to satisfy the Agency's request. Once again, the Board must reiterate its position that the burden to demonstrate compliance rests with the Petitioner. In cases such as this where the Agency has good cause to doubt the validity or basis of certain estimates there is no substitute for actual data which could be supplied by the manufacturer of the equipment which Petitioner proposes to install.

Petitioner stated that it felt that soil borings taken in the vicinity of the site indicated that enough of the area contained suitable percolation test results. Petitioner felt that this was an adequate demonstration that no ground

water pollution could result. The Agency challenged this conclusion on the basis that the determinations of suitability were based on the assumption that only domestic sewage would be subject to seepage. The answer to this conflict lies in the collection of data from properly located monitoring wells. This was the same solution proposed by the Illinois State Geological Survey in its earlier report on the suitability of soils in this area.

Since these inadequacies in Petitioner's application support the Agency's decision to deny the subject permits, the Board will not address the Agency's claims that the plans and specifications for Petitioner's proposed wastewater treatment system do not conform with all pertinent technical criteria documents. The Board is hopeful that once the proper data has been collected in accordance with this Opinion, the Petitioner and the Agency can agree on the proper form any future permit applications should assume.

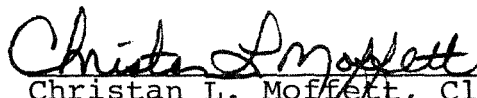
This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

Mr. Young abstains.

ORDER

It is the Order of the Pollution Control Board that the Agency's action dated June 7, 1977 in denying Petitioner's application for permits to construct an air flotation unit and to operate its existing wastewater treatment facilities be affirmed.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 27th day of April, 1978 by a vote of 4-0.



Christian L. Moffett, Clerk
Illinois Pollution Control Board