

ILLINOIS POLLUTION CONTROL BOARD
May 11, 1978

VILLAGE OF VICTORIA,)
)
) Petitioner,)
)
) v.) PCB 78-40
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter comes before the Board on a variance petition filed on February 8, 1978, by the Village of Victoria seeking relief from the Rule 203(c) phosphorus standard and the Rule 203(f) ammonia nitrogen requirements of Chapter 3: Water Pollution Regulations for its recently-upgraded treatment lagoon serving a population of less than 500. On March 20, 1978, the Environmental Protection Agency filed a Recommendation favorable to the grant of this relief subject to certain conditions. No hearing was held in this matter; Petitioner waived hearing in an Amended Petition filed on March 2, 1978.

In 1977, Petitioner completed construction of a new sewer collection system and its treatment lagoon under a state grants program amounting to \$1.6 million (Rec. p3). The new treatment facility consists of a 3-cell nonaerated treatment lagoon with submerged sand filters (Pet. pl, 2). Figures on the performance capabilities of the treatment facility will not be available until the lagoon attains design level for a consistent discharge to receiving waters (Pet. p2). At operation levels the parties agree that the treatment lagoon will not be capable of removing phosphorus to 0.05 mg/l or consistently reducing ammonia nitrogen concentrations to 1.5 mg/l (Pet. 1; Rec. p4, 5). Measures for improving effluent quality of this facility are under consideration. Recently, Petitioner was placed on a grant priority list for construction of additional ammonia nitrogen treatment facilities as it becomes necessary (Rec. p3).

Effluent from the Victoria treatment lagoon discharges to an unnamed creek which is approximately 500 feet upstream from an 11-acre strip mine lake. On June 19, 1975, Petitioner was granted a lagoon exemption from Rule 404(c)(iii) without reference to the strip mine lake or consideration of the phosphorus require-

ment. In prior decisions, the Board has held that dischargers to strip mine lakes must meet the phosphorus requirements of Rule 203(c) (Canton, PCB 77-234 (November 23, 1977)); the requirements of Rule 203(c) as well as the ammonia nitrogen water quality standard of Rule 203(f) apply to Petitioner's discharge.

Rule 203(c) provides that phosphorus (as P) shall not exceed 0.05 mg/l in any stream at the point where the stream enters any lake or reservoir. Rule 203(f) requires that a 1.5 mg/l concentration of ammonia nitrogen (as N) shall not be exceeded in the waters of the State. In addition, the Petitioner needs a variance from Rule 402 of Chapter 3 which requires that no effluent shall alone or in combination with other sources cause a violation of any applicable water quality standard. In those instances where the water quality standard for a particular constituent is exceeded in a receiving body of water, any discharge of that constituent to that body of water must meet the water quality standard as an effluent limitation unless a variance has been granted pursuant to Title 9 of the Environmental Protection Act.

On July 1, 1977, the Agency issued an NPDES permit (IL 0048861) requiring the facility not to exceed a 30/30 mg/l BOD₅/TSS on a 30-day average (Rec. p3). Because no information is available on the downstream water quality or effluent quality of Petitioner's discharge, the Board will assume that the phosphorus and the ammonia nitrogen water quality standards will not be met downstream from the Victoria outfall and in the strip mine lake in violation of Rules 203(c), 203(f) (ammonia nitrogen) and 402 of Chapter 3.

The Village of Victoria states that it has expended all available funds on the present facility. Furthermore, Petitioner claims that any requirement to meet the phosphorus and ammonia nitrogen standard would impose an arbitrary and unreasonable hardship (Pet. p2, Rec. p5).

The Board has previously granted a number of petitions for variance in which relief was sought from the requirement to remove phosphorus to the 0.05 mg/l level finding that such practice is technically feasible but economically unreasonable. City of Hoopeston, PCB 76-234, 24 PCB 441; Southern Illinois University at Edwardsville, PCB 77-111, 25 PCB 775; Valley Water Company, Inc., PCB 77-46, 25 PCB 289; Village of Deland, PCB 77-193 (September 15, 1977); Village of Beecher City, PCB 77-194 (September 15, 1977). As in the cases cited, the Board finds here that the Petitioner would suffer an arbitrary or unreasonable hardship if required to meet the 0.05 mg/l phosphorus limitation and will therefore grant the relief requested from Rules 203(c) and 402 of Chapter 3.

In a number of cases involving the ammonia nitrogen requirement, the Board has granted a variance provided that petitioner agree to comply with prospective ammonia nitrogen regulatory changes adopted by the Board in R77-6. City of Canton, PCB 77-234 (November 23, 1977); Village of Arthur, PCB 77-266 (December 20, 1977).

On March 30, 1978, the Board, after considering regulatory proposal R77-6, proposed to adopt a new Rule 402.1 as an exception to Rule 402 of Chapter 3 to establish an interim ammonia nitrogen effluent limitation for dischargers to the streams of this State. This proposed final regulation was submitted to the Secretary of State for a 45-day publication and comment period in the Illinois Register beginning on April 14, 1978. In its present form, the proposed new Rule 402.1(a) would exempt Petitioner's treatment lagoon and other discharges with daily ammonia nitrogen loads of less than 60 pounds from the ammonia nitrogen requirements of Rule 203(f) until after July 1, 1982.

In view of the foregoing, the Board will grant a variance from Rule 203(f) as it applies to ammonia nitrogen and Rule 402 until the proposed regulation in R77-6 is finally disposed of by this Board.

The Board will direct the Agency to issue a modified NPDES permit to Petitioner consistent with this Order pursuant to Rule 914 of Chapter 3 and to include interim effluent limitations as may be reasonably achieved through the application of 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 Victoria is granted a variance for the operation of its wastewater treatment lagoon from Rules 203(c) and 402 of Chapter 3: Water Pollution of the Board's Rules and Regulations regarding phosphorus until April 23, 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 Village of Victoria is granted a variance for its wastewater treatment lagoon from Rules 203(f) and 402 of Chapter 3: Water Pollution of the Board's Rules and Regulations regarding ammonia nitrogen until December 31, 1978, subject to the following conditions:

- a) This variance will earlier terminate upon adoption by the Board of any modification of the existing ammonia nitrogen water quality standards and effluent limitations and the Village shall comply with such revised regulations on adoption by the Board.
- b) 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 ammonia nitrogen which will provide the best practicable treatment technology for the removal of ammonia nitrogen over the life of the works.
- c) During the period of this variance, the Village shall operate its treatment lagoon to achieve the minimum discharge of ammonia nitrogen consistent with the capabilities of the existing equipment and process.

3. Petitioner, within 30 days of the date of this Order, shall request Agency modification of NPDES permit IL 0048861 to incorporate all conditions of the variance set forth herein.

4. The Agency, pursuant to Rule 914 of Chapter 3, shall modify NPDES permit IL 0048861 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 suspended in the event of judicial review of this variance pursuant to Section 41 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 78-40, 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 11th day of May, 1978 by a vote of 5-0.

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