

ILLINOIS POLLUTION CONTROL BOARD  
February 16, 1978

CITY OF MONTICELLO, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 77-305  
 )  
 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 October 11, 1977, by the City of Monticello, requesting relief from certain provisions of Chapter 3 as applied to the wastewater treatment plant of the City. In particular, variance is requested from the phosphorus standard of Rule 203(c) and the ammonia nitrogen requirements of Rule 203(f). On January 3, 1978, the Agency filed a Recommendation favorable to the grant of the variance subject to certain conditions; the City has waived the right to hearing in this matter.

The City of Monticello, the owner and operator of the sewage treatment plant, states that it cannot meet the current phosphorus and ammonia nitrogen water quality standards of Chapter 3. The existing facility discharges a daily load of approximately one million gallons to an unnamed tributary in Piatt County, Illinois, which is 2200 feet from the Sangamon River; the Sangamon River discharges to Lake Decatur in Macon County, Illinois. The Petitioner questions the 7-day 10-year zero low flow classification of the unnamed tributary with exhibits indicating that two million gallons of cooling water are discharged five days per week upstream from the treatment facility (Pet. Att. B), but this information does not alter the fact that the plant effluent in this case must meet water quality standards for these two parameters in question.

In support of this variance petition, Petitioner has submitted a summary of monthly Agency monitoring reports of effluent quality levels from the Monticello facility for phosphorus (as PO<sub>4</sub>) and ammonia nitrogen (as NH<sub>3</sub>). The City also presented calculations of stream concentrations for the same parameters using Agency data with a two million gallon dilution factor (Pet. Att. C). From these data, the Board can assume that the levels of phosphorus (as P) and ammonia nitrogen (NH<sub>4</sub>-NH<sub>3</sub> as N) most probably exceed the water quality standards of 0.05 mg/l and 1.5 mg/l respectively in Chapter 3.

The Petition alleges, and the Agency Recommendation supports, that relief from Rule 203(c) and 203(f) would provide adequate protection from the water quality limitations for the Monticello facility; the Board has held that relief is also required from Rule 402. In Village of Arthur, PCB 77-266 (December 20, 1977), the Board granted a variance from Rule 402 in addition to Rule 203(c) and 203(f). While Petitioner's facility needs relief from 203(c) and 203(f), Rule 402 of Chapter 3 requires that any discharge which causes or contributes to a water quality violation is subject to the water quality standard as an effluent limitation unless a variance is granted pursuant to Title 9 of the Environmental Protection Act.

In 1972, Petitioner completed upgrading its sewage treatment plant at a cost of \$569,000 to include a combination trickling filter and activated sludge treatment plant. These improvements, however, did not provide the capability of removing phosphorus to a concentration of 0.05 mg/l and ammonia nitrogen to 1.5 mg/l. On December 27, 1976, Petitioner was offered Step I facility planning grant monies, but claims it cannot act responsibly in recommending or implementing a plan until the Board issues their Order in this matter (Pet. p2).

The Board recognizes the difficulties which face this and other petitioners in designing facility improvements. Currently, the Board is considering changes in the phosphorus and ammonia nitrogen limitations in regulatory proceedings R76-1 and R77-6 respectively. Because these regulatory proposals may result in modifications of phosphorus and ammonia nitrogen limitations, it would be premature, if not unreasonable, to require Monticello to spend an estimated \$475,000 (Pet. p2) for control technology now under evaluation in regulatory proceedings.

On October 23, 1977, the Agency was authorized by the Administrator of the USEPA to issue NPDES permits to Illinois dischargers. Accordingly, the Board is authorized to grant variances from NPDES permit provisions only when the relief is in compliance with applicable provisions of the Federal Water Pollution Control Act as amended (FWPCA). Therefore, in addition to a showing of arbitrary or unreasonable hardship, Petitioner must plead and prove, and the Agency must verify in their Recommendation, that the variance requested is consistent with the provisions of the FWPCA.

The same will be true in all future petitions which may come before the Board for variance from Board Regulations other than Chapter 3; a variance from Chapter 2: Air Pollution Regulations, for example, will require a showing of compliance with all appropriate sections of the Federal Clean Air Act as amended; other variance requests will require a similar showing for compliance with any applicable provisions of the Resource Conservation and Recovery Act or the Hazardous Material Transportation Act as these or other federal acts apply.

In addition to these federal requirements, the Board must be assured that Petitioner's NPDES permit is consistent with directives of the Order. In this case, the Agency recommends that the Board, pursuant to Rule 912(a) of Chapter 3, order certain modifications in Petitioner's NPDES permit. Rule 912 (a) contemplates a complaint not evident here and requires the finding of a violation before the Board may modify, suspend, or revoke an NPDES permit. Rule 914 of Chapter 3, on the other hand, provides the mechanism for such changes in the permit as are necessary here. Upon issuance of a variance, the Board is authorized to order the Agency to issue or modify an NPDES permit consistent with the Board Order as well as the FWPCA, NPDES regulations, and the Act. Accordingly, the Board will direct the Agency to issue a modified NPDES permit to Petitioner consistent with the conditions of the Order and to include such interim effluent limitations as may reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

According to the Petition and the Agency Recommendation, the Monticello treatment facility is currently incapable of meeting the phosphorus and ammonia nitrogen water quality limitations; the Agency recommends that a variance be granted provided that the NPDES permit is modified and the Petitioner agrees to all provisions of this Order. The Board has previously granted a number of variances from the phosphorus and ammonia nitrogen water quality standards. In phosphorus variance proceedings, the Board has found that phosphorus control is technically feasible but economically impractical. 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 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).

In view of the foregoing, the Board finds that Petitioner would suffer an arbitrary and unreasonable hardship without relief from Rules 203(c) and 402 as applied to phosphorus; to require Petitioner to present a showing of the unreasonableness of their compliance with Rules 203(f) and 402 ammonia nitrogen standards at this time would merely duplicate what the Agency has undertaken to demonstrate in R77-6. The Board will, therefore, grant Monticello sewage treatment plant relief from Rules 203(c), 203(f), and 402 as each applies to phosphorus and ammonia nitrogen subject to the conditions of this Order.

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

ORDER

1. The City of Monticello is granted a variance for the operation of its wastewater treatment plant from Rules 203(c) and 402 of Chapter 3: Water Pollution, of the Board's Rules and Regulations regarding phosphorus until January 19, 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 City 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 City 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 City of Monticello is granted a variance for the operation of its wastewater treatment plant 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 City 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 City 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.

3. Petitioner, within 30 days of the date of this Order, shall request Agency modification of NPDES Permit IL 0029980 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 0029980 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 77-305, 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 16<sup>th</sup> day of February, 1978 by a vote of 50.



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Christan L. Moffett, Clerk  
Illinois Pollution Control Board