

ILLINOIS POLLUTION CONTROL BOARD  
December 8 , 1977

CONSOLIDATION COAL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 77-223  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

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

Consolidation Coal Company filed a Petition for Variance with the Board on September 6, 1977, requesting relief from Rule 203(c) of Chapter 3 of the Board's Rules and Regulations for a sanitary waste discharge from Consolidation's Hillsboro Mine into Lake Coffeen. The Agency filed a Recommendation favorable to the granting of the variance with certain conditions on October 5, 1977. Petitioner waived hearing on November 7, 1977.

Rule 203(c) requires that phosphorus as P not exceed 0.05 mg/l in any reservoir or lake, or in any stream at the point where the stream enters any reservoir or lake.

The existing treatment works for which the variance is sought consists of an activated sludge package treatment plant with an equalization tank and effluent chlorination facilities with an average total daily flow of 25,000 gallons and treats sanitary wastewater from a bathhouse maintained by Consolidation for its employees at the Hillsboro Mine portal.

In order to comply with the provisions of the NPDES permit and Board regulations, Consolidation has planned to upgrade the facility by addition of surface sand filters, dosing tanks and a new chlorination system, and will otherwise qualify for the exemption under Rule 404(f)(ii) of Chapter 3 except for phosphorus as limited by Rule 203(c).

Consolidation states in its Petition that operations at this portal of Hillsboro Mine will terminate July 1, 1979; with the termination, the average discharge from the bathhouse will be reduced to less than 1,500 gallons per day.

Consolidation admits that the cost of compliance, which would include the construction and operation of a tertiary waste treatment plant, would impose an arbitrary and unreasonable hardship and particularly so since the discharge from the facility will be eliminated in approximately 18 months.

The Board has previously granted a number of petitions for variance in which relief was sought from the 0.05 mg/l phosphorus limitation of Rule 203(c) finding that while such removal is technically feasible, it is economically unreasonable (City of Hoopston, PCB 76-234, 24 PCB 441; Southern Illinois University at Edwardsville, PCB 77-111, 25 PCB 755).

As in the cases cited, the Board finds here that Consolidation would suffer arbitrary or unreasonable hardship if required to meet the 0.05 phosphorus limitation and will therefore grant the relief requested.

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

ORDER

1. Consolidation Coal Company is granted a variance for its Hillsboro Mine portal treatment facility from Rules 203(c) and 402 of Chapter 3: Water Pollution, of the Board's Rules and Regulations as those Rules apply to phosphorus until June 30, 1979, subject to the following conditions:

- a) This variance will earlier terminate upon adoption by the Board of the existing phosphorus water quality standards and effluent limitations and Consolidation Coal Company shall comply with such revised regulations on adoption by the Board;
- b) Consolidation Coal Company, in making interim improvements to the facility, shall reserve sufficient space for future installation of chemical storage and mixing and dosing equipment necessary for phosphorus removal to 1 mg/l as may be required under (a), above;
- c) Within 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 con-

ditions of this variance. The forty-five day period herein shall not run during 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 77-223, 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 8<sup>th</sup> day of December, 1977 by a vote of 4-0.

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