

ILLINOIS POLLUTION CONTROL BOARD  
June 9, 1977

CITY OF LEROY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 77-58  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This matter comes before the Board on the variance petition filed on February 22, 1977, by the City of LeRoy seeking variance from Rules 203(c) and 402 of the Water Pollution Regulations as regards phosphorus. On May 31, 1977, the Agency filed an Amended Recommendation favorable to the grant of the variance and on June 6, 1977, the parties jointly waived hearing in this matter.

The Board has previously dealt with many petitions in which relief was sought from the requirement of meeting the phosphorus water quality standard. Village of Argenta and Village of Cerro Gordo, PCB 75-182, PCB 75-183, 18 PCB 152; Village of Strasburg, PCB 76-28; Old Ben Coal Company, PCB 76-21; City of Hoopston, PCB 76-234. Although the City of LeRoy, with a population of approximately 2400 persons, does not presently have a central sewage treatment facility, the City proposes to install such facilities with the assistance of State/Federal grants. Because it is expected that the City will contribute to a phosphorus water quality violation, Agency approval for the funding cannot be obtained unless the City is granted a variance.

Although the Agency does not specifically so state in this Recommendation, on many prior occasions the Agency has stated that requiring phosphorus removal to the 0.05 mg/l level is not both technically feasible and economically reasonable. Consistent with this belief, the Agency has filed a Petition for Regulatory Change (R76-1) with the Board which would amend the regulations by requiring only point sources which have 1500 or more population equivalent and which discharge into impoundments of greater than twenty acres to treat the wastewater to a level not to exceed 1 mg/l prior to discharge. The Petitioner's proposed facility has a design average flow in excess of 1500 population equivalent and if the regulation is adopted as proposed the Petitioner would be required to treat to a level of 1 mg/l phosphorus.

As in the earlier cited cases, the Board finds here that the Petitioner would suffer an arbitrary or unreasonable hardship if required to meet the 0.05 mg/l phosphorus water quality standard and will therefore grant the requested relief. This variance will be granted subject to the condition that Petitioner shall comply with the terms of R76-1 or other modified phosphorus standards, when and if adopted by the Board, or shall seek a variance therefrom.

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

ORDER

The Petitioner, City of LeRoy, is granted a variance for its sewage treatment plant from Rules 203(c) and 402 of Chapter 3: Water Pollution Control Regulations as regards phosphorus until June 1, 1982, subject to the following conditions:

1. The Petitioner's plant shall be designed and constructed to allow for the possible future installation of appropriate phosphorus removal facilities.

2. This variance will terminate upon adoption by the Board of any modification of the existing phosphorus water quality standards or effluent limitations and the Petitioner shall comply with such revised regulations when adopted by the Board, or shall seek a variance therefrom.

3. Within 35 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 form of said certification shall be as follows:

CERTIFICATION

I, (We), \_\_\_\_\_ having read the Order of the Pollution Control Board in PCB 77-58, 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 9<sup>th</sup> day of June, 1977 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board