

ILLINOIS POLLUTION CONTROL BOARD  
June 9 , 1977

CITY OF GIBSON CITY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 77-96  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This matter is before the Board on the petition filed on March 28, 1977, by the City of Gibson City seeking relief from Rules 203(c) and 402 of the Water Pollution Regulations as regards phosphorus. Although the Agency did file a Recommendation favorable to the grant of the variance, that Recommendation was contingent upon the Board establishing an interim effluent limitation which Gibson City had previously alleged would impose an arbitrary or unreasonable hardship upon it (Pet. 2). In view of the pleadings, the Board therefore construed the Agency's Recommendation as a partial objection to the grant of the variance and in accordance with Material Service Corp. v. PCB, (3rd Dist. 1976) 41 Ill.App.3rd 192, 354NE2d37, set the matter for hearing. The Board also requested Petitioner to file a waiver of the 90-day decision period set by statute so that the hearing could be held. Because the Petitioner has informed the Board by phone that it does not plan to file a waiver of the 90-day decision period, the Board feels compelled to render its decision on this matter at this time or the variance will be granted by operation of law.

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; City of Arcola, PCB 76-280; Caseyville Township, PCB 77-14. Although not the case in the instant matter, in almost all of the cited cases the variances were granted so that the petitioners could qualify for financial assistance in regards to the upgradings at their sewage treatment facilities. Gibson City has recently completed its upgrading efforts and has the equipment available for phosphorus removal.

Gibson City operates a 0.575 MGD conventional activated sludge process followed by a low rate trickling filter and clarifiers. The effluent discharges to Drummer Creek, which is tributary to the Sangamon River and Lake Decatur. Because the phosphorus concentration in the Sangamon River exceeds the 0.05 mg/l level as it enters Lake Decatur, by operation of Rule 402 the Petitioner's discharge is water quality limited to the Rule 203(c) standard of 0.05 mg/l phosphorus.

As in many of the cited cases, the Agency submits that requiring phosphorus removal to the 0.05 mg/l water quality level is technically feasible but economically unreasonable (Rec. 2). 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 phosphorus prior to discharge. Because Petitioner's waste load is greater than 1500 population equivalent, 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 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 relief from that requirement. This relief will be conditioned on the fact that Petitioner utilize its existing chemical feed equipment to reduce the phosphorus concentration in the plant's effluent to 1.0 mg/l. While the Board recognizes full well that the Petitioner sought relief from this specific interim limitation, absent a hearing in this matter the Board is unable to determine whether Petitioner is entitled to this relief.

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

#### ORDER

Petitioner, City of Gibson City, is granted variance from Rules 203(c) and 402 of the Water Pollution Regulations as regards phosphorus until June 1, 1982, subject to the following conditions:

1. This variance will terminate upon the 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.

2. During the period of this variance, Petitioner must utilize its existing chemical feed equipment and reduce the total phosphorus concentration in the plant's effluent to 1.0 mc/l.

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 77-96, 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, Christian 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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Christian L. Moffett, Clerk  
Illinois Pollution Control Board