

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1975

VILLAGE OF WOODLAWN,)
Petitioner,)
)
v.) PCB 75-266
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

The Village of Woodlawn (Petitioner) filed a variance petition on July 7, 1975. The Illinois Environmental Protection Agency (Agency) filed a Recommendation to grant the variance on August 8, 1975. No hearing was held.

Petitioner is a municipal corporation with a population of 310 and presently has no sewage collection or municipal treatment facilities. Village treatment consists primarily of septic tanks and tile fields. In addition, the Woodlawn public schools discharge after Imhoff treatment into a tributary of Rayse Creek which joins the Big Muddy River above Rend Lake.

Petitioner's proposed treatment program will consist of a sewer system and a package contact stabilization plant with tertiary treatment. The effluent discharge from Petitioner's proposed plant will be tributary to the Big Muddy River. The Big Muddy, in turn, flows into Rend Lake. Rule 203(c) of Chapter 3 limits phosphorus concentration to 0.05 mg/l in any reservoir or lake, or in any stream at the point where it enters into a reservoir or lake. The phosphorus concentration in the Big Muddy River entering Rend Lake currently exceeds 0.05 mg/l. Thus Petitioner's effluent as tributary to the Big Muddy River may not violate Rule 203(c). In addition, since the Big Muddy River has a 7-day, 10 year average low flow of zero above Rend Lake, Petitioner's effluent must meet water quality standards under Rule 402. Therefore, Petitioner is prohibited from discharging an effluent in excess of 0.05 mg/l phosphorus.

Rule 404(f) of the Water Regulations provides that for discharges to streams with less than 1:1 dilution, the effluent shall not exceed 4 mg/l of BOD and 5 mg/l suspended solids. Petitioner seeks a Variance from Rule 404(f) as well as Rule 203(c) and 402. A Rule 404(f)(ii) "Pfeffer Exemption" procedure was submitted by Petitioner to the

Agency on June 24, 1975, indicating that dissolved oxygen in the receiving stream does not drop below 6.0 mg/l and ammonia nitrogen does not exceed 1.5 mg/l. The Exemption, if granted, would allow a BOD level of 10 mg/l and a suspended solid level of 12 mg/l. Petitioner states in its Variance application that the estimated effluent from its proposed treatment facility would be no greater than 10 mg/l BOD and 12 mg/l suspended solids.

Petitioner has been given a priority number of 371 for its sewage treatment plant (STP) and 966 for its sewage collection system under the federal grant program. Petitioner also qualifies for the State of Illinois Accelerated Grant Program. Petitioner states that its completed treatment facility effluent will have an average design flow of 0.035 MGD, a BOD level of 10 mg/l and a Suspended Solids level of 12 mg/l.

Petitioner's situation in regards to the phosphorus standard is similar to other recent variance cases coming before the Board from the Rend Lake area. In City of Mt. Vernon v. Environmental Protection Agency, (PCB 74-489), the Board granted a variance from Rules 203(c), 404(f)(ii)(a), (d) and (e) of Chapter 3 as they pertain to phosphorus. The variance was conditioned upon construction of advanced phosphorus removal techniques when such techniques became practicable. In both Village of Argenta v. Environmental Protection Agency, (PCB 75-182), and Village of Cerro Gordo v. Environmental Protection Agency, (PCB 75-183), the Board conditioned variances upon the design and construction of treatment plants to allow for possible future installation of phosphorus removal facilities. The Board's reasoning in the instant case is consistent with its approach in the aforementioned cases. Rend Lake is phosphorus-limited and phosphorus removal in the future may be required. Until more research is performed, we had best prepare for this requirement.

Petitioner has alleged in its petition that immediate compliance with the Rule 203(c) phosphorus limit of 0.05 mg/l is technically infeasible and economically impracticable. The Agency Recommendation notes that technology is available to reach a treatment level of 1 mg/l. The necessary equipment would be eligible for grant funding. Petitioner has neglected to allege the cost of phosphorus removal equipment. However, the Agency states in its Recommendation that, data presented in the Cerro Gordo and Argenta cases indicates that operation and maintenance costs would increase the average monthly user charge by over 50%.

Petitioner has presented data in the cost of two alternative disposal methods, that of land application and diversion eight miles to another water shed. The Agency indicates in its Recommendation that given the local soil quality and the small size of the Village these methods would be not feasible or prohibitively expensive. The Agency further states, that given the Petitioners population of 310, and the relative quantities of phosphorus measured in the Big Muddy River upstream of its entry into Rend Lake, the Petitioner's phosphorus effluent has a minimal impact on the lake.

The Board finds that based on Petitioner's financial capacity, its proposed treatment facilities, the economics of alternative disposal methods, and the minimal impact of Petitioner's discharge upon Rend Lake, the Petitioner would suffer an arbitrary and unreasonable hardship if required to vachieve compliance with Rule 203(c), 402 and 404(f) at this time.

A variance from Rule 404(f) may not actually be needed here as R74-17 (July 17, 1975), amending Rule 409 of the Water Regulations extends the Rule 404 compliance date for municipalities and sanitary districts eligible for construction grants under the Federal Water Pollution Control Amendments of 1972, from December 31, 1974 to July 1, 1977. However, under the Pfeffer Exemption procedure, all water quality standards deadlines which have not been extended, must be complied with before the 404(f)(ii) exemption may be granted. To meet this difficulty and clarify Petitioner's position, the Variance from Rule 404(f) is granted.

The Petitioner in a letter received by the Board on August 13, 1975 has requested a "permanent" variance. No such authority exists for the Board to do so and the proper method would be in the forthcoming regulatory proceeding which the Agency indicates it will be initiating. Because Petitioner will be required to obtain an NPDES permit, the Board may grant a variance for up to a five year period. The Board has determined that Petitioner should be granted a variance until July 1, 1977.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

The Pollution Control Board hereby grants the Village of Woodlawn a variance from July 1, 1975 to July 1, 1977 from Rules 203(c), 402, and 404(f) subject to the following conditions:

a. The sewage treatment plant shall be designed and constructed to allow for the possible future installation of appropriate phosphorus removal facilities, and

b. Within 35 days after the date of the Board Order herein, the Village of Woodlawn shall execute and submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a 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 and fully understanding the Order of the Illinois Pollution Control Board in PCB 75-266 hereby accept said Order and agree to be bound by all terms and conditions thereof.

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 18th day of September 1975 by a vote of 3-0.

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