

ILLINOIS POLLUTION CONTROL BOARD
March 13, 1975

THE CITY OF ST. CHARLES,)
)
 Petitioner,)
)
 v.) PCB 75-21
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION & ORDER of the Board (by Mr. Zeitlin)

This Variance Petition was filed by the City of St. Charles (St. Charles) on January 16, 1975. The Petition asks for a second extension of a variance originally granted by the Pollution Control Board (Board) on September 26, 1973, and also for an extension of time in which to complete construction ordered by the Board in conjunction with its initial variance grant. Both extensions are requested for the period January 30, 1975 to March 15, 1975.

The Board in City of St. Charles and Swift and Company v. EPA, PCB 73-247, 9 PCB 343 (1973), granted St. Charles a variance from Rule 404(b) until August 15, 1974, permitting it to discharge BOD₅ and suspended solids in amounts up to 25 mg/l and 37 mg/l, respectively. In that Order the Board also required that St. Charles complete construction of final tanks for its plant expansion by August 15, 1974. A performance bond of \$5,000 was required to insure the construction of those tanks.

In the subsequent case of City of St. Charles v. EPA, PCB 74-176, 13 PCB 269 (1974), the variance and construction completion requirements of PCB 73-247 were both extended until January 30, 1975. In the Opinion accompanying those extensions, the Board stated that it would serve no valid purpose to deny such an extension. The Board found that Petitioner had exercised good faith and pursued compliance with "all deliberate speed." 13 PCB at 270. The reason given for the extension granted by the Board in PCB 74-176 was the delayed delivery of the equipment necessary to complete construction of the final tanks noted above.

In requesting this short further extension, St. Charles again states that it has been unable to obtain delivery of certain critical parts and equipment. Such parts and equipment, ordered by St. Charles in February of 1974, include motor controls on final tank return sludge pump, meters for discharge of sludge pump, and Walker process cross collectors. St. Charles now states that delivery for these items should be complete by February 15, 1975, and that the project should be completed and operational no later than March 15, 1975. St. Charles again states that it has made every effort to complete this project on schedule, and that it has operated in complete good faith.

In its Recommendation in this matter, the Environmental Protection Agency (Agency) states a belief that these delivery delays are in fact beyond the control of Petitioner. The Agency states that current demand has left many pollution control devices in short supply. Although the Board is unwilling to accept, in the absence of concrete proof, that such a general shortage exists, it is nonetheless willing to accept such an unreputed allegation for the purposes of making its determination in this case.

The Agency Recommendation did note, however, that Petitioner has had difficulties in meeting the BOD and suspended solid limits set by the Board's Order in PCB 73-247 and continued in effect under the extension granted in PCB 74-176. The Agency also states, though, that the problems which have occurred in meeting the 25 mg/l and 37 mg/l limits have been the result of operational difficulties and breakdowns incident to the construction project and to new equipment shake-down. The Agency feels however that these difficulties either have been or will be overcome.

The Board agrees with the Agency that once again it would serve no purpose to deny this extension. It appears that St. Charles has again acted in complete good faith, and will soon be in compliance with all applicable Board Regulations. The period covered under this extension is quite short, and we feel that no unreasonable damage to the environment will result if the extension is granted.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that Petitioner City of St. Charles be granted a variance from Rule 404(b) of the Board's Water Pollution Regulations from January 30, 1975 until March 15, 1975, subject to the following conditions:


1. Petitioner shall not cause or allow concentration of its effluent greater than 25 mg/l BOD and 37 mg/l suspended solids.

2. Construction of the final tanks discussed in the accompanying Opinion shall be completed, and those tanks operating, by March 15, 1975.

3. Petitioner shall arrange to have the bond posted in compliance with the Board's Order in PCB 73-247, and extended by the Board's Order in PCB 74-176, extended to cover installation of equipment and construction as required by this Order, such bond to be posted within 30 days of the entry of this Order.

4. Petitioner shall continue compliance with the conditions stated in paragraphs 3 and 5 of the Board's Order in PCB 74-176.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion & Order were adopted on the 13th day of March, 1975 by a vote of 4 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board