

ILLINOIS POLLUTION CONTROL BOARD  
September 26, 1973

CITY OF ST. CHARLES )  
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 and )  
 )  
 SWIFT AND COMPANY )  
 )  
 v. ) PCB 73-247  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

Mr. Richard J. Kissel and Mr. Alvin Catella appeared on behalf of City of St. Charles and Swift and Company;  
Mr. John E. Slattery, Assistant Attorney General, appeared on behalf of Environmental Protection Agency.

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

Petition was filed June 14, 1973 by the City of St. Charles ("City") and Swift and Company ("Swift") for variance from various water pollution regulations.

The Agency filed a recommendation on July 27, 1973 and essentially recommended denial. On August 22, 1973, a supplemental recommendation was filed recommending a grant subject to certain conditions. Public hearing was held on August 27, 1973 in St. Charles.

The City has a sewage treatment plant which for the 15-month period from January 1, 1972 to March 31, 1973 has been averaging 21 mg/l BOD<sub>5</sub> and 73 mg/l suspended solids. The relevant standard, Rule 404(b), is 20 mg/l BOD<sub>5</sub> and 25 mg/l suspended solids effective at least as early as July 1, 1972. Variance is requested from this Rule until a plant expansion can be completed by August 15, 1974.

Swift has a new dry sausage plant under construction in St. Charles. The plant will employ 262 persons with an annual payroll of \$3,525,000 and will cost \$16,000,000. It will begin operations about October 29, 1973 and over a 12-week period will take over processing now housed in an old, obsolete plant in Chicago. Swift was denied an operating permit by the Agency on March 30, 1973 because the St. Charles plant was near its design capacity. The Agency interprets their variance request as being from Rules 901 and 902.

In considering the City's variance, it is useful to treat it as separate and distinct from Swift. The effect of the additional load from Swift of initially 170,000 gpd. with pretreatment is stated by

the City's consulting engineer, Mr. Bernard G. Bosch, to be "minimal" (R. 26). We then have to consider whether the City of St. Charles, with a suspended solids discharge almost 200% over a July 1, 1972 standard, has tried to rectify its problem in good faith or has caused its problem to come into being by delay.

The verified petition recites the delay occasioned the City by the Northeastern Illinois Planning Commission between April, 1971 and August, 1972. This is a 16-month period coming at a significant point in the development of expansion plans. While we give this argument some weight, we do point out that the Board cannot grant to NIPC the power to alter deadlines of the Board. We would urge that wastewater treatment planning be kept current for all communities in order that planning itself not be an excuse for continued pollution. Further, NIPC would be the first to say that its recommendations are not binding upon the Federal government as it decides to issue construction grants. There are actual cases, as NIPC knows, in which NIPC recommendations have not been followed by the Federal government. Thus, we might say that St. Charles should have followed an independent course and requested Federal funds without NIPC. But the appeals from this course would probably have consumed as much time. St. Charles now has the Federal grant of \$1,205,925 and is under construction.

Thus, the problem is fast on its way to solution. Phase I of the plant expansion is due to be completed November 1, 1973 (R. 17, 19). Phase II, which will raise the plant capacity from 4.0 MGD to 8.0 MGD will be done by April 1, 1975, but the critical new final tanks will be done August 15, 1974.

We grant the variance to the City until August 15, 1974 allowing them to discharge 25 mg/l BOD<sub>5</sub> (instead of 20) and 37 mg/l suspended solids (instead of 25) until that date to be computed in a manner as specified in Rule 404(h). The deposition of Edward Marek of the Agency (August 2, 1973) states that no adverse effects have been observed, but also that high river flows have prevented sampling.

We do not require the hiring of an additional sewage treatment operator because that is dependent upon the supply of operators. If the plant is understaffed and hence, operated incorrectly, then the Agency has a remedy in an enforcement action if it chooses. We also do not require the extra filter because the demonstration filter can be used in an emergency.

As to Swift, the Agency would require pretreatment of flows and a nocturnal discharge of much of it. Since Swift agrees, we will require this. We do not hold with the Agency on not permitting a Swift discharge beyond 170,000 gpd., if Phase I is not done. To do so would jeopardize the orderly startup of this new food processing plant. While no evidence appears in the record, the additional 200,000 gpd. at full Swift flow should not make a major difference on an effluent already at 4 MGD and using by then improved final tanks. We

grant the variance to Swift from Rules 901 and 902.

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

ORDER

1. Variance is granted to the City of St. Charles from Rule 404(b) until August 15, 1974 to discharge BOD<sub>5</sub> at up to 25 mg/l and suspended solids at up to 37 mg/l computed as in Rule 404(h).
2. The construction and operation of the final tanks of Phase II shall be the first portion implemented by the City and shall be completed by August 15, 1974.
3. Polymers shall be added to the clarifying tanks and/or activated carbon shall be added to the aeration tanks by the City as considered necessary by the Agency to meet the BOD<sub>5</sub> or suspended solids limits set in #1 above.
4. A performance bond of \$5,000 is required of the City to insure construction of the equipment referred to in #2 above.
5. Variance is granted to Swift and Company from Rules 901 and 902 to permit it to connect its new dry sausage plant to the St. Charles sewer system.
6. Maximum flow to be discharged by Swift shall be 370,000 gpd. pre-treated to not more than 150 mg/l BOD<sub>5</sub>, 150 mg/l suspended solids, and 50 mg/l of oil; all based upon 24-hour, 30 day average composite sampling.
7. Fifty-four percent or more of Swift's wastewater shall be discharged between 8:00 p.m. and 8:00 a.m.
8. Monthly reports of the volume, time of flow and strength of wastewater in sufficient detail to check difference to the conditions of this Order shall be filed with the Agency and the City by Swift no later than the 20th day of the month following each calendar month after November, 1973 for the duration of the variance.
9. A performance bond in the amount of \$20,000 is required of Swift to insure construction of the pretreatment equipment required to meet #6 above.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 26<sup>th</sup> day of September, 1973, by a vote of 5 to 0.

Christan L. Moffett

