

ILLINOIS POLLUTION CONTROL BOARD
June 7, 1973

CITY OF BELLEVILLE)
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)
 v.) PCB 73-91
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 ENVIRONMENTAL PROTECTION AGENCY)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is a petition for variance requesting relief from Rules 404(f), 921(d) and 1002 of the Water Regulations. Hearing was held on May 10, 1973.

The City owns and operates two activated sludge secondary treatment plants. The design average daily flow of Plant #1 is 8.4 mgd and that of Plant #2 is 0.4 mgd. Both plants discharge to intermittent streams having a dilution ratio of less than one to one.

Rule 404(f) requires that by December 31, 1973 no effluent shall exceed 4 mg/l BOD and 5 mg/l suspended solids where the dilution ratio is less than one to one. In October, 1971 the City was issued Agency permits for the construction of improvements designed to bring the plants into compliance with Rule 404(f).

The Agency informed Petitioner that a certified basin plan was a necessary prerequisite of the Federal Water Quality Office prior to the acceptance of grant applications. The Southwestern Illinois Metropolitan Planning Commission (SIMAPC) has prepared an Interim Metro Plan which includes the City of Belleville. Petitioner received SIMAPC's certification on October 2, 1972, thereby fulfilling the requirement for State and Federal grant applications.

Petitioner's Construction Permits have now expired and must receive Agency renewal because construction was not undertaken within a year from the date the permits were issued. These permits cannot be renewed or reissued since the project does not have an approved Project Completion Schedule as required by Rule 921(d). On August 28, 1972, Petitioner submitted a Project Completion Schedule to the Agency. The schedule could not be approved because compliance with Rule 404(f) was scheduled for December 31, 1974, one year after the required compliance date.

The Agency has recommended to the U.S. Environmental Protection Agency that a grant offer be extended to Petitioner. Petitioner's project has a certification number of 1-73 for FY73. In light of the high State and Federal priority number, it is reasonably certain that Petitioner will receive the necessary funding to assure the required upgrading.

Petitioner's present inability to file an approvable project completion schedule is due primarily to uncertainties of regionalization and compliance with Federal requirements for funding. The Agency believes that there is significant benefit in requiring Petitioner to file a Project Completion Schedule containing dates which Petitioner can follow even though the dates submitted do not reflect the requirements of the Water Regulations and are not approvable by the Agency.

The Agency believes that compliance with Rules 921(d) and 1002 imposes a sufficiently arbitrary and unreasonable hardship in that the requirement of a Project Completion Schedule would impose further delay in beginning construction of improved sewage treatment facilities.

The Agency reports that neither intermittent stream receiving effluent from Petitioner's plants show any adverse effects from the effluents. The apparent absence of adverse effect of Petitioner's discharges combined with justifiable reasons for delay, a high probability of State and Federal grants and an apparent willingness of Petitioner to proceed with construction; causes the Agency to believe that the petition for variance should be granted.

Based upon the evidence and the Agency's recommendation we will grant the variance for one year so that the permits may be issued and construction may begin.

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

ORDER

The variance is granted from Rules 404(f), 921(d) and 1002 of the Water Regulations for one year from the date of this order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 7th day of June, 1973 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board