

ILLINOIS POLLUTION CONTROL BOARD  
March 15, 1973

CITY OF NASHVILLE )

v. )

PCB 72-275 )

ENVIRONMENTAL PROTECTION AGENCY )  
)

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

This is a petition for variance from Rule 405 of the Illinois Water Pollution Regulations which requires that no effluent shall exceed 400 fecal coliforms per 100 ml after July 31, 1972. Hearing was held on September 15, 1972.

The existing treatment facility at Nashville consists of a single stage stabilization pond with a design capacity of 3,600 population equivalents. The facility treats wastes from residents and commercial businesses in the City. It processes approximately 300,000 gallons of waste water per day. The City estimates that the treatment process has a 75% efficiency and that the effluent discharged is 151 pounds per day of suspended solids and 128 pounds per day of BOD. The effluent is discharged directly to Nashville Creek, a tributary to Crooked Creek. At times Nashville Creek is reported to have no flow. (R.43).

On December 9, 1971, samples of the effluent taken by the Agency showed 92 mg/l BOD, 44 mg/l suspended solids and 800,000/100 ml fecal coliform. On February 15, 1972, samples showed 130 mg/l BOD, 37 mg/l suspended solids and 120,000/100 ml fecal coliform. On June 16, 1972, samples showed 55 mg/l BOD, 150 mg/l suspended solids and 26,000/100 ml fecal coliform. On July 14, 1972, samples showed 75 mg/l BOD, 160 mg/l suspended solids and 60,000/100 ml fecal coliform. The Agency inspector who took the samples testified that the fecal coliform levels were higher than from most treatment facilities. The engineering consultant for the City testified that the levels measured by the Agency would create a potential for disease producing organisms to be in the waters. (R.64).

The City is planning to upgrade its facility by adding two additional single cell stabilization ponds to be connected in series to the present pond. The system will also include a permanent chlorination facility for effluent disinfection. The expected completion date for the project is December, 1973

Some of the delay has been caused by the City's inability to purchase the land needed for the proposed facility. Negotiations for a certain tract of land began in October, 1970. The negotiations proved unsuccessful and finally in August, 1972 the City Council voted to file a condemnation suit for the desired property. We do not know anything further about the status of that case. Also in August, 1972 the City Council directed the City Attorney to prepare a revenue bond issue for \$450,000. The City has applied for both State and Federal grant funds for the project but will be able to finance the project on its own if necessary (R.34-5).

The main issue in this case is whether the City should be excused from the installation of temporary chlorination facilities. The evidence is clear that such facilities can technically be accomplished within the present City system. Engineering data indicate that the temporary facility could be constructed in the present stabilization pond. It would have to be protected from flooding but it certainly could be done. Most of the temporary facility would be salvageable upon completion of the permanent facility. The chlorination unit itself would not have to be relocated, only the detention tank. The net loss on the temporary facility would be only \$7,000. The facility would take six months to complete.

We do not find the evidence adequate to support a variance. The City has not shown in any significant way that the \$7,000 loss would impose an unreasonable hardship on itself. The fecal coliform levels are high and do not justify the prevention of a \$7,000 loss. Furthermore, at this point it seems unrealistic that the expected December, 1973 completion date for the permanent installation will be met. As far as we know, neither the land purchase nor the local financing has been completed as of this time.

In addition, the Board takes judicial notice of a proceeding filed before it on March 7, 1973 by the Director of the Environmental Protection Agency (R.73-4). This proceeding states that federally-funded projects will be delayed for approximately one year because regulations and guidelines have not been published. Since the Director's letter also states that the start of construction without a grant would render the municipality ineligible for reimbursement from Federal funds it would appear that Nashville would not want to finance the entire \$120,000 cost of the lagoon system itself lest it lose \$90,000 (75%) in Federal funds. A delay seems reasonable beyond December 1973 and December 1974 would become a more likely completion date.

Another issue here is that of the City's diligence after the hearing was conducted. The City did not submit the 91-page transcript to the Board until January 10, 1973, four months after the hearing. We feel that such delay was unreasonable under the

circumstances. If we would have been able to decide this case in October or November, 1972 there would have been around fourteen months between this and the expected completion date of December, 1973 for the permanent facility. Figuring the six-month period necessary to complete the temporary chlorination facility, it could have been in operation by May, 1973 at the latest.

From May 1973 to December 1974 is 19 months. The \$7,000 cost, even though appearing high, is low when spread over this period.

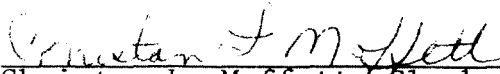
We are bothered by the lack of information from Nashville on the bacterial levels in Nashville Creek. While bacterial dieoff does occur in the lagoon, the levels of fecal coliform as discharged are far above the standard. Do people swim, wade or canoe in Nashville Creek or North Creek? We do not know on this record. Nor do we know the bacterial levels resulting in these creeks after mixing. Nashville with a population of 3,027 cannot be expected to put on a sophisticated case but it could have done more. We would also urge Nashville to review the testimony in a related case with regard to installing temporary chlorination facilities in very short time periods. (City of Granite City v. EPA, PCB 72-184, 371, February 27, 1973). We deny the variance without prejudice to a new proceeding if more adequate proofs are available.

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

ORDER

The petition for variance is denied without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15 day of March, 1973 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board

