

ILLINOIS POLLUTION CONTROL BOARD
March 30, 1978

VILLAGE OF FINDLAY,)
)
 Petitioner,)
)
 v.) PCB 78-16
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on a variance petition filed on January 24, 1978, by the Village of Findlay for relief from the phosphorus standard of Rules 203(c) and 402 in Chapter 3: Water Pollution Regulations. On March 16, 1978, the Agency filed a Recommendation favorable to the grant of this variance subject to certain conditions. No hearing was held in this matter; Petitioner properly waived hearing in its amended petition of February 21, 1978.

The Village of Findlay owns and operates a wastewater treatment facility with a design flow of 0.10 MGD serving 809 customers in Shelby County, Illinois.

The treatment plant effluent flows to an unnamed tributary one mile upstream from Lake Shelbyville (Pet. p5), and is thereby subject to the phosphorus requirements of the Board's Water Pollution Regulations. Rules 203(c) and 402 of Chapter 3 prohibit any discharge from causing or contributing to a violation of the 0.05 mg/l phosphorus water quality in any lake or any stream at the point of entry into the lake. In this case, the Agency comments that its proposed regulatory amendments in R76-1 to the phosphorus standard, if adopted as proposed, would eliminate the phosphorus treatment requirements for Petitioner until its average plant discharge equalled 0.15 MGD (Rec. p4).

Information provided by the National Eutrophication Survey estimates that the Findlay plant contributes less than 1.0% of the total phosphorus load entering Lake Shelbyville (Pet. p5, 6). No other phosphorus effluent quality data is available for the Findlay plant; the Agency maintains that a monitoring and analysis requirement of phosphorus would constitute an arbitrary and unreasonable hardship upon Petitioner (Rec. p4).

The Village of Findlay holds a valid NPDES permit IL 0020524 issued on June 30, 1977. The existing treatment facility in Findlay consists of a contact stabilization activated sludge unit, chlorination facilities and an aerated grit chamber. Recently, Petitioner has received a Step I facilities planning grant for upgrading the treatment facility. Anticipated improvements involving Step II and Step III grants include nitrification, tertiary filtration, sludge drying beds, laboratory and control building, main plant lift station, and all interconnecting piping to serve a design population of 1000 P.E. and a design average flow of 0.10 MGD (0.25 MGD maximum) (Pet. p2, 3).

The Petitioner claims that compliance with 0.05 mg/l phosphorus standard would impose an arbitrary and unreasonable hardship. In support of this position, the Village of Findlay submitted an evaluation of three treatment alternatives including chemical treatment, land application through spray irrigation, and diversion to another watershed. The Petitioner alleges and the Agency does not dispute that the use of any of the three alternatives would produce an arbitrary and unreasonable hardship (Pet. p4, Rec. p4).

The Board is familiar with these conditions and has regularly granted similar relief in the past. City of Hoopston, PCB 76-234, 24 PCB 441; Southern Illinois University at Edwardsville, PCB 77-111, 25 PCB 775; Valley Water Company, Inc., PCB 77-146, 25 PCB 289.

In those and other cases, the Agency and the Board have recognized that it is economically impractical for the petitioners to comply with the current phosphorus limitation of Chapter 3. We need only mention that the Agency has petitioned the Board in regulatory proposal R76-1 for appropriate amendments to the phosphorus effluent and water quality standards of the Water Pollution Regulations.

The Board finds that Petitioner would suffer an arbitrary and unreasonable hardship if required to meet the existing 0.05 mg/l standard. Petitioner will be granted a variance from Rule 203(c) and 402 for five years or until the Board adopts a regulation change under R76-1, whichever occurs first subject to the conditions of the Order.

The Board will direct the Agency to issue a modified NPDES permit to Petitioner consistent with this Order pursuant to Rule 914 of Chapter 3 and to include said interim effluent limitations as may be reasonably achieved through the application of best practicable operation and maintenance practices in the existing facilities.

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

ORDER

1. The Village of Findlay is granted a variance for the operation of its wastewater treatment plant from Rules 203(c) and 402 of Chapter 3: Water Pollution of the Board's Rules and Regulations regarding phosphorus until January 19, 1982, subject to the following conditions:

- a) This variance will earlier terminate upon adoption by the Board of any modification of the existing phosphorus water quality standards and effluent limitations and the Village shall comply with such revised regulations when adopted by the Board.
- b) Petitioner shall provide space in its design for storage of chemicals, and for mixing and dosing equipment capable of meeting a phosphorus effluent concentration of 1 mg/l, or to whatever alternative level may be established by the Board.
- c) In the event that grant funds become available during the period of this variance, the Village shall incorporate in any design and specification adequate provision for the installation of equipment for the removal of phosphorus which will provide the best practicable treatment technology for the removal of phosphorus over the life of the works.

2. Petitioner, within 30 days of the date of this Order, shall request Agency modification of NPDES permit IL 0020524 to incorporate all conditions of the variance set forth herein.

3. The Agency, pursuant to Rule 914 of Chapter 3, shall modify NPDES permit IL 0020524 consistent with the conditions set forth in this Order including such interim effluent limitations as may reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

4. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The

forty-five day period herein shall be suspended during judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 78-16, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

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 30th day of March, 1978 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board