

ILLINOIS POLLUTION CONTROL BOARD
October 2, 1980

CITY OF HERRIN,)
)
Petitioner,)
)
v.) PCB 80-145
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on a Petition for Variance filed on August 8, 1980 by the City of Herrin (the "City") which requested a variance from Rule 1201 of Chapter 3: Water Pollution Control Regulations ("Chapter 3") to allow its currently certified Class 3 wastewater treatment plant operator the time necessary to obtain proper certification (i.e., obtain a Class 2 certification). On August 15, 1980, the Illinois Environmental Protection Agency ("Agency") filed a Motion to Consolidate two pending variance proceedings involving the City. On August 18, 1980, the City of Herrin filed its Consent to the Motion to Consolidate Variance Proceedings in PCB 80-145 and PCB 80-146. However, the Agency (in accord with the Petitioner) subsequently sent in a letter withdrawing its motion to consolidate which was received by the Board on September 3, 1980. On September 4, 1980, the Board entered an Order which held this matter for the Agency's Recommendation. On September 10, 1980, the Agency filed its Recommendation which recommended that the Variance be granted, subject to various conditions. The City of Herrin has waived its right to a hearing, and no hearing has been held.

The City of Herrin (the "City") owns and operates a wastewater treatment facility (the "facility" or "plant") in Williamson County, Illinois which serves about 10,000 individuals. (Rec. 1). The Petitioner's plant includes "an aerated grit chamber, influent pumps, primary settling tanks, a trickling filter, secondary settling tanks, effluent chlorination facilities, an anaerobic digester and sludge drying beds." (Pet. 2). This facility, which has a design capacity of 1.2 million gallons per day or 12,000 population equivalents, discharges wastewater into an unnamed ditch which is a tributary to the Big Muddy River.

At the present time, Mr. Monty Cooper, a certified Class 3 operator, is supervising the operations of the Petitioner's facilities. Mr. Cooper started working at the plant in May of 1977

and has been the supervisor for the last two years. A part-time certified Class 4 operator now helps Mr. Cooper with the required work load of the wastewater treatment plant and four lift stations. (Rec. 2).

However, the Agency believes that the City's facilities are presently understaffed. (Rec. 2-3). The Petitioner's discharge monitoring reports and Agency grab samples have indicated various violations of the effluent discharge limitations of its NPDES Permit No. IL 0029165 pertaining to BOD₅ and suspended solids. (Rec. 2-3).

The City is seeking this variance from the Board's Water Pollution Regulations in order to allow Mr. Cooper to continue as the supervising operator of the City's facilities until he completes the necessary requirements which will enable him to take the Class 2 certified operator test. (Rec. 2). It is expected that Mr. Cooper will be eligible to take the Class 2 examination during the latter months of 1980. (Rec. 2).

In its variance petition, the City states that:

"The present operator, Mr. Cooper, is capable and is willing to operate the treatment facility for a salary that is within the City's operating budget. If the City must hire an operator from outside the City, an increase in the user charges to the customers would be necessary to pay the increase salary of the operator. Further, under the City of Herrin's agreement with the union representing the City employees, it would be required to keep the present wastewater treatment facility operators on the payroll. This would create a surplus of operators, and put an additional financial burden on the City's sewer department.

All of the present wastewater treatment plant operators are certified wastewater treatment plant operators. The City has encouraged the operators to become certified and has seen that they take the certification exams for the next higher level when they become eligible. Hiring an operator from outside the City work force to assume operating control of the treatment facility could discourage these operators from continuing their efforts to obtain higher levels of certification." (Pet. 2-3).

In its recommendation, the Agency indicated that it has worked with Mr. Cooper in the past and finds that he is a "competent operator" who is "capable of operating the plant" during the period of this variance until he becomes a certified Class 2 operator. (Rec. 2-4). However, the Agency has recommended that "additional manpower should be provided at the wastewater treatment plant." (Rec. 3).

After evaluating all the facts and circumstances of this case, the Board finds that the denial of this Variance would constitute an arbitrary and unreasonable hardship upon the Petitioner. Accordingly, the Board will grant the requested variance, subject to various conditions which are delineated in the Board's Order.

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

ORDER

The Petitioner, the City of Herrin, is hereby granted a variance from Rule 1201 of Chapter 3: Water Pollution Control Regulations, subject to the following conditions:

1. This variance shall terminate after a period of 9 months, or upon Mr. Cooper terminating his employment at the City's wastewater treatment plant, or upon Mr. Cooper becoming a properly certified Class 2 wastewater treatment plant operator, whichever occurs first.
2. The Petitioner shall provide additional operating personnel to operate the present wastewater treatment facility and lift stations under the best practicable operation and maintenance practices.
3. Within 60 days of the date of this Order, the Petitioner shall report to the Agency the names of additional personnel and the number of hours for each operator who is operating and maintaining the City's wastewater treatment plant and the lift stations.
4. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Variance Unit, Department of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, an executed Certification of Acceptance to be bound to all terms and conditions of the variance. This 45 day period shall be held in abeyance for any period this matter is being appealed. The form of this certification shall be as follows:

CERTIFICATION

I, (We), _____ having read
the Order of the Illinois Pollution Control Board in PCB 80-145,
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.

Chairman Dumelle concurs. Mr. Goodman abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control
Board, hereby certify that the above Opinion and Order were adopted
on the 2ND day of October, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board