

ILLINOIS POLLUTION CONTROL BOARD  
April 2, 1981

CITY OF McHENRY, )  
)  
Petitioner, )  
)  
v. ) PCB 80-228  
)  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by D. Satchell):

This matter comes before the Board upon a petition for variance filed December 17, 1980 by the City of McHenry (McHenry) requesting a variance from the operator certification requirement of Rule 1201 of Chapter 3: Water Pollution. On February 2, 1981 the Illinois Environmental Protection Agency (Agency) recommended that the variance be granted with conditions. On February 23, 1981 McHenry filed an acceptance of the recommendation, withdrawing its request for a hearing. No public comments have been received and no hearing was held.

The February 23 pleading stated that McHenry's "request for a hearing on its petition is conditionally withdrawn." Since no condition is stated, the Board construes this as an unconditional waiver of the hearing provided by Section 37 of the Environmental Protection Act (Act).

McHenry operates a municipal wastewater treatment plant which includes primary clarification, contact stabilization, secondary clarification and chlorination. It has a 2.0 million gallon per day (MGD) design average flow and is being expanded to 3.0 MGD with local funds. The discharge is to the Fox River pursuant to NPDES Permit No. IL0021067 which expires December 31, 1983. The permit contains effluent limitations of 20 mg/l for five day biochemical oxygen demand and 25 mg/l for total suspended solids, based on 30 day averages. The Agency states that McHenry is in compliance with the conditions of this permit.

Rule 1201 of Chapter 3 prohibits operation of the treatment works unless under the supervision of a person who has been certified by the Agency as competent to operate the particular size or type of works. Rule 1202 authorizes the Agency to classify treatment works.

On or about November 29, 1980 the Agency notified McHenry that its plant had been reclassified as a Group A facility. Prior

to that time it was classified as a Group B facility. The Agency states that the reclassification was pursuant to Agency Procedures for the Certification of Operators of Wastewater Treatment Plants which became effective April 1, 1980. Whereas a Group B facility requires a Class 2 operator, a Group A facility requires a Class 1 operator. Class 1 is a higher classification requiring additional training, including completion of four different wastewater courses.

The McHenry plant is currently under the supervision of a Mr. David or Daniel Hester, a Class 2 operator who is willing to seek to upgrade his classification. In addition, McHenry employs the firm of Baxter and Woodman, sanitary engineering consultants of Crystal City, Illinois. The firm has a Class 1 operator who is available on twenty-four hour call.

Considering that the plant is currently well operated and the time involved in reclassification is short, the Board finds that it would impose an arbitrary or unreasonable hardship upon McHenry if it were required to immediately hire a Class 1 operator. The variance will be granted with conditions similar to those recommended by the Agency.

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

#### ORDER

Petitioner, the City of McHenry is granted a variance from Rule 1201 of Chapter 3: Water Pollution subject to the following conditions:

1. This variance expires April 1, 1982.
2. Petitioner's wastewater treatment plant shall be under the direct and active field supervision of a Class 2 operator during the term of this variance.
3. This variance shall terminate sixty days after the termination of employment of Petitioner's present Class 2 operator or under condition one, whichever first occurs.

Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, IL 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the Certificate shall be as follows:

CERTIFICATION

I, (We), \_\_\_\_\_, having read and fully understanding the Order in PCB 80-228, hereby accept that Order and agree to be bound by all of its terms and conditions.

SIGNED \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 2<sup>ND</sup> day of April, 1981 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board