

ILLINOIS POLLUTION CONTROL BOARD
July 24, 1980

VILLAGE OF FRANKLIN GROVE,)
)
) Petitioner,)
)
) v.) PCB 80-106
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the May 15, 1980, petition of the Village of Franklin Grove for variance from the certified treatment plant operator requirements of Rule 1201 of Chapter 3: Water Pollution (Chapter 3). On June 16, 1980, the Environmental Protection Agency (Agency) filed a Recommendation that variance be granted subject to conditions. Hearing was waived, and none was held.

The Village of Franklin Grove (Village), which is located in Lee County, owns and operates a wastewater treatment plant serving approximately 1,000 persons. From the time of the plant's construction 20 years ago, the plant has been supervised by Mr. Maurice Hussey, a certified Class 4 operator. Due to Agency revision of the plant's classification, as of April 1, 1980, the plant requires supervision by a Class 3 operator; upon completion of construction now underway to upgrade the facility, a certified Class 2 operator will be required (Pet. 2-3, Rec. 1-2).

The Village estimates that Mr. Hussey would need to take about 1½ years of coursework to qualify to take the Class 2 examination, the completion of which would coincide with his planned retirement. The Village wishes to retain Mr. Hussey as operator of its plant, and feels that it would be unreasonable to require him to qualify for Class 2 certification at his age.

The Village has therefore proposed a plan whereby a local resident, Mr. Roger Warrenfeltz, would immediately be hired as an assistant operator. Mr. Hussey would be retained as plant operator full-time until his retirement, and on a part-time basis for a year thereafter. During this period, Mr. Warrenfeltz would be receiving practical training from Mr. Hussey. At the same time, Mr. Warrenfeltz would be completing coursework preparatory to taking the Class 2 examination at the end of the 2½ year period (Pet. 2-3).

The Village explains that, if its plan is not approved, the two other options open to it will involve considerable additional expense to its water users. The first, which would involve the immediate hiring of a certified Class 2 operator and forced early retirement of Mr. Hussey, would increase user charges \$7.00 monthly to provide funds for the necessary higher wage for the Class 2 operator. The second option would be to hire a certified Class 2 operator on a part-time basis to be plant operator of record, while Mr. Hussey continued to be in charge of daily plant operation. This program would entail an additional levy of \$5.00 a month for users (Pet. 4-5).

The Agency supports this plan in part, as it agrees with the Village that Mr. Hussey has provided competent and satisfactory supervision for the plant. However, the Agency points out, Mr. Hussey's ability to supervise the as-yet-incomplete upgraded facility cannot be determined. The Agency therefore suggests that a variance be granted for 1½ years, after which time the operation of the upgraded facility and the new operator's progress can be thoroughly evaluated (Rec. 3-4).

The Board notes that the Village has not supplied information concerning the increased cost to it of following the plan it has proposed, so that a true cost comparison of its alternatives cannot be made. Mere recitation of increased costs to achieve compliance is insufficient to support a grant of variance. However, upon consideration first of the inequity which might be done to a competent, career employee if immediate compliance were to be required, and then of the attendant cost increases, the Board finds that denial of variance would impose an unreasonable hardship on the Village of Franklin Grove. Variance from Rule 1201 of Chapter 3 is therefore granted subject to conditions outlined in the order. The variance will terminate upon the retirement of Mr. Hussey; the Village may petition the Board for a new variance if one is required at that time.

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

ORDER

Petitioner, the Village of Franklin Grove, is hereby granted variance from Rule 1201 of Chapter 3: Water Pollution until January 31, 1982, subject to the following conditions:

- 1) This variance will terminate at such earlier time as Mr. Maurice Hussey might cease to be employed as chief operator of the Village's plant on a full-time basis.
- 2) The Village shall immediately act to hire an additional plant operator, who shall be trained in the operation of the existing facilities and of the upgraded facilities as they are completed.

3) The Village shall submit quarterly reports concerning the progress of its operator trainee towards Class 2 certification.

4) The Village shall at all times operate its sewage treatment facilities under the best practicable operations and maintenance practices.

5) Within 45 days of the date of this Order, the Village of Franklin Grove shall execute and forward to the Illinois Environmental protection Agency, Division of Public Water Supply, 2200 Churchill Road, Springfield, IL 62706, an executed Certification of Acceptance and Agreement to be bound by all conditions of the variance. The forty-five day period herein shall be stayed during judicial review of this variance pursuant to Section 41 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 80-106, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By _____
Authorized Agent

Title _____

Date _____

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 24th day of July, 1980, by a vote of 5-0.

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