

ILLINOIS POLLUTION CONTROL BOARD  
January 22, 1981

CITY OF LaSALLE, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 80-192  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This matter comes before the Board upon a Variance Petition filed October 16, 1980 by the City of LaSalle ("City") which requested a Variance from Rule 1201 of Chapter 3: Water Pollution Control Regulations for a 12 month period so that its presently certified Class 2 wastewater treatment plant operator can qualify for Class 1 operator certification. On October 17, 1980, the Board entered an Order which required that the Petitioner file an affidavit attesting to the truth of the facts presented in its Variance Petition. On November 3, 1980, the City filed the requisite affidavit. On December 8, 1980, the Illinois Environmental Protection Agency ("Agency") filed its Recommendation. The Agency recommended that the Variance be granted, subject to various conditions. No hearing has been held in this matter and no public comment has been received.

The City owns and operates a wastewater treatment plant ("plant") which discharges effluent pursuant to NPDES Permit No. IL 0029424 and serves about 12,000 individuals and several industrial facilities. The Petitioner's plant was upgraded in 1977 to include secondary treatment units. (Pet. 3; Rec. 1). The Agency notes that "at that time, the upgraded plant was rated as a Class A facility that required supervised plant operation by a Certified Class 1 Operator". (Rec. 1).

For the past 3½ years (i.e., since June of 1977), the City's wastewater treatment facilities have been operated by Mr. Samuel T. McNeilly (who obtained his Class 2 certification in June of 1979). The City believes that Mr. McNeilly is a "competent, experienced" operator and Agency inspection reports "cite satisfactory plant operation and Mr. McNeilly's rapid progress in achieving a thorough record keeping system, quality laboratory work, as well as a good understanding of treatment process controls". (Rec. 2; Pet. 2).

In its Variance Petition, the City notes that Mr. McNeilly is a very capable college graduate who is currently the President of the North Central Water & Wastewater Operator's Association. (Pet. 3). The Petitioner also has indicated that its facilities are "being considered for an award this year for being one of the best run Class A plants in the State". (Pet. 2). Thus, the City believes that no adverse environmental impact will result from allowing "an able and experienced operator" time to qualify for Class 1 certification. (Pet. 2). Similarly, "the Agency also concludes that minimal risk of adverse environmental harm would result from allowing continued plant operation under Mr. McNeilly's supervision". (Rec. 3).

Alternative compliance methods (such as searching for, and hiring, a full-time certified Class 1 operator at a higher salary to replace Mr. McNeilly and increasing the average user charge for City residents who often are living on fixed or low incomes) appear to be inappropriate in this case, and "the Agency concurs with the Petitioner that the alternative compliance methods, as described by Petitioner, are unreasonable in view of these facts." (Rec. 3).

Although the City "has requested a 12 month variance period on the basis that Mr. McNeilly will become eligible for Class 1 Operator Certification in the summer of 1981", the Agency has recommended "that a variance period longer than the time requested by Petitioner is appropriate" because "the Agency Operator Certification Unit indicates that Mr. McNeilly will be qualified for Class 1 Certification in November, 1981." (Rec. 2).

The Board, after evaluating the facts and circumstances of this case, finds that the City of LaSalle would suffer an arbitrary or unreasonable hardship if this Variance were denied. Accordingly, the Variance will be granted subject to the conditions 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 LaSalle, is hereby granted a Variance from Rule 1201 of Chapter 3: Water Pollution Control Regulations until March 1, 1982, or until Mr. McNeilly becomes properly certified, whichever occurs first, subject to the following conditions:

1. If Mr. McNeilly terminates his employment before March 1, 1982, the Petitioner's Variance shall expire and the City of LaSalle shall obtain the services of a Class 1 certified operator within 60 days of Mr. McNeilly's termination date.

- 2. The Petitioner shall operate its wastewater treatment plant under the best practicable operation and maintenance practices.
- 3. 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, Illinois 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 80-192, 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 that the above Opinion and Order were adopted on the 22<sup>nd</sup> day of January, 1981 by a vote of 5-0.

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