

ILLINOIS POLLUTION CONTROL BOARD
January 21, 1982

CITY OF LA SALLE,)
)
Petitioner,)
)
v.) PCB 81-152
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

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

On October 5, 1981 the City of LaSalle (City) filed a petition for variance which fails to specifically indicate the Chapter 3: Water Pollution Rules from which variance is sought. The Illinois Environmental Protection Agency (Agency) in its recommendation filed on November 12, 1981, construes the petition as seeking relief from Rules 405, and 501 and modification of the Village's NPDES Permit pursuant to Rule 914 as they relate to the fecal coliform limitation, fecal coliform monitoring, and chlorine residual effluent limitations in the City's NPDES permit, respectively. The recommendation was that variance be denied and was accompanied by a motion for leave to file instanter, which motion is hereby granted. On December 7, 1981 the City filed a response to that recommendation which apparently requests a short term variance to allow the cessation of chlorination during the pendency of this action. Hearing was properly waived, and none was held.

The City owns and operates the LaSalle Wastewater Treatment Plant (Plant) located in LaSalle County. The Plant serves approximately 12,000 persons plus several industrial facilities. It consists of a mechanical bar screen, grit removal, preaeration, primary clarification, drying beds, anaerobic digester, activated sludge, secondary clarifiers, aerobic digester, sludge lagoons and chlorination. Its current NPDES Permit #IL0029424 contains the following 30-day average effluent limitations:

BOD (biochemical oxygen demand)	20 mg/l
TSS (total suspended solids)	25 mg/l
Fecal Coliform	400 colonies/100 ml
Chlorine Residual	0.75 mg/l

Discharge data from monitoring reports (November, 1977-August, 1981) indicate general compliance with BOD₅ and TSS limitations. However, average chlorine residual levels have exceeded the 0.75 mg/l limitation for 19 of the last 26 reported months with maximum levels as high as 4.0 mg/l. Further, for

7 of the last 20 months the fecal coliform levels have been indicated as "TNTC" which the Board assumes means "too numerous to count".

The City alleges that the high chlorine residual levels are a result of an oversized chlorine feeding system which was incorrectly supplied to the City. This feeding system has a minimum setting of 50 lbs./day, 25-30 lbs./day in excess of the level the City alleges to be necessary to meet the 0.75 mg/l limitation. The Agency states that the overly high levels over the years are due to a decrease in flows in addition to the oversized feeding system.

The City further alleges that only three alternatives for compliance exist: obtaining a variance, suing the firm that upgraded the plant, or paying another firm to correct the problem. The latter two, the City argues, would constitute an arbitrary or unreasonable hardship.

The Board must reject the obtaining of variance as a possible compliance plan, since the Board cannot grant permanent variance. A variance excuses compliance with otherwise applicable regulations for a specific period of time not greater than five years. Therefore, the City must plan to remedy the problem either on its own or as a result of court action.

The cost of remedying the chlorination problem is alleged to include the following:

Cathodic protection of booster pump copper line	\$3,000
Downsizing chlorinators	\$1,500
Reworking dock area	<u>\$1,200</u>
Total	\$5,700

Since these compliance costs comprise the only hardship alleged, they must be examined in light of the relief requests to determine whether they constitute arbitrary and unreasonable hardship. The Board construes the petition as requesting relief from Rules 405 and 501 and from its NPDES permit limitation pursuant to Rule 914 of Chapter 3. This is confirmed by the City's December 7th response to the Agency's recommendations.

The City requests modification pursuant to Rule 914 of Chapter 3 of a condition to its NPDES permit #IL0029424 which imposes a 0.75 mg/l chlorine residual concentration limitation.

In the past the Board has ordered NPDES chlorine residual limitations stricken where compliance with that condition would cause a violation of Board rules (see Stepan Chemical v. IEPA, PCB 79-161, November 19, 1981). Here, compliance with the 0.75

mg/l chlorine residual limitation apparently causes violations of Rule 405 of Chapter 3 which sets a 400/100 ml fecal coliform limitation. The City may, therefore, obtain the requested relief upon application to the Agency for a permit modification.

The request for variance from Rule 405 gives rise to a different set of issues. In this context the Board clearly has the power to grant variance if arbitrary or unreasonable hardship has been shown.

The only hardship alleged is the \$5,700 indicated earlier which would be required to be expended to meet the chlorine residual limitation. Since that condition is unenforceable, there is in fact no hardship in that the chlorine feed system need not be downsized. Therefore, the Board finds that the City has failed to prove an arbitrary or unreasonable hardship as is required by Procedural Rules 401(c) and (g) and 407(f), and variance from Rule 405 is denied.

Since the City must continue to disinfect and is required to meet the fecal coliform limitation of that rule, the variance request from Rule 501 will also be denied in that the petition, if anything, demonstrates greater than usual necessity for such monitoring.

The Board finally notes that the disinfection rule from which variance is requested is currently before the Board for possible amendatory change in R77-12 (Docket D), but the proposed rule would not exempt the City from the chlorination requirement. However, a proposed rule is not a final, adopted rule, and should not be considered as such. The Agency has, however, based its recommendation of denial solely upon the fact that the proposed rule would not exempt the City.

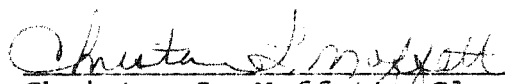
This Opinion constitutes the Board's findings of fact and conclusion of law in this matter.

ORDER

The petition for variance filed by the City of LaSalle in this matter is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 21st day of January, 1982 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board