

ILLINOIS POLLUTION CONTROL BOARD
February 3, 1972

LAKE COUNTY DEPARTMENT OF)
PUBLIC WORKS)
)
)
v.) PCB 71-337
)
)
ENVIRONMENTAL PROTECTION AGENCY)
)

Mr. Lawrence S. Bloom, appeared for the Petitioner;

Mr. Lee A. Campbell, Assistant Attorney General, appeared for the Respondent

OPINION OF THE BOARD (by Mr. Dumelle)

On October 28, 1971 the Lake County Department of Public Works (hereafter Department) filed a petition for variance seeking a waiver of one of the special conditions established in a permit^{1]} issued by the Environmental Protection Agency (EPA) to the Department for the Department's Vernon Hills Sewage Treatment Plant (Vernon Hills STP). The Department sought to be relieved from complying with the permit requirement for clarification and chemical treatment following tertiary lagoons.

We grant a variance for one year, until January 23, 1973 subject to several conditions.

A new sewage treatment plant is to be in operation for the area now served by the Vernon Hills STP by August of 1973 (R. 29). The present plant will then be abandoned. After August of 1973 the Vernon Hills STP will be serving as a lift station to transport wastes to the New Century Town Sewage Treatment Plant. The permit applied for in this case was to enlarge the existing plant to accommodate the additional population load up until the time that the new plant

1] Permit Number 1971-AB-403

"Special Condition. This permit is issued subject to the condition that the owner/operator shall submit plans and specifications within four weeks of the date of this permit to provide for final clarification with chemical coagulation following the two cell lagoon, in accordance with the latest policies and technical requirements of this agency."

is in operation. The Department, on May 11, 1971 submitted plans for the use of a temporary portable plant until the new plant is on line. The expansion was to be accomplished with the use of four modular units handling 50,000 gallons each (R. 53). A permit was granted on July 13, 1971 which approved the submitted plans and added the special condition for clarification by chemical treatment which is the subject of this variance request.

The equipment called for by the special condition was necessitated by a new technical policy statement issued by the EPA in July of 1971. The added requirement came into existence some two or three months after the Department had applied for a permit to operate the temporary facilities. The special condition requirement related to removal of algae. The algae growth represents a problem for about three months of the year at the end of the summer season (R. 45). For the remaining months there would be no need for the chemical clarifier (R. 45-46). There was testimony that had the Department known of the new requirement before they started on their expansion plans by excavating the lagoons they would have likely opted to install mixed media filters instead of the lagoon system. The special condition was a requirement for the Department to change courses in midstream.

Compliance with the special condition will add a substantial expense to the temporary plant. In making our decision the fact that the facilities required to meet the special condition of the permit were of a temporary nature weighed heavily. In little more than one year the need for the additionally required treatment will surcease. Meanwhile an increment of one-third of the cost of the temporary plant will have been added to the estimated cost of the temporary facilities. Mr. Robert J. Degan, Director of Public Works for the Department testified that the cost of engineering and construction of the temporary plant, exclusive of the special condition requirements, was \$206,064 (R. 26). The cost of the chemical clarifier required by the special condition would be approximately \$65,000.

On the record facts we find that the special condition requirements impose an unreasonable hardship on the petitioner. Further since the algae growth will potentially be a problem for only about three months of the year we find that there will not be such a significant detriment to the environment to not allow the operation of the temporary plant without the special condition requirements. The evidence showed that the effluent from the temporary plant as regards BOD and suspended solids will very likely be of such a quality as to exceed the quality of the receiving stream. The plant effluent was characterized as meeting the applicable standards of 4 mg/l BOD and 5 mg/l suspended solids (R. 5). The receiving stream, Seavey Ditch, was sampled and showed concentrations of 22 and 19 mg/l BOD and 5 and 12 mg/l suspended solids (R. 14). The 22 mg/l BOD and 5 mg/l suspended solids were samples taken upstream from the present plant and would not be a reflection of the character of the present plant effluent. With the use of the temporary plant which is expected to be operational in February 1972 (R. 46) the quality of the receiving ditch should improve.


We have a precedent for granting a variance in a case such as this where it is requested that a governmental body operate a sewage treatment facility at variance with the regulatory requirements on a temporary basis while permanent improvements are being made. In The Metropolitan Sanitary District of Greater Chicago v. EPA, PCB 71-166, (September 16, 1971) we allowed the operation of the District's Orland Park plant until permanent adequate facilities, a new interceptor sewer, could be constructed which would lead to the abandonment of the plant for which a variance was asked. There, as here, it was demonstrated that no permanent ecological harm would occur in the receiving stream.

We therefore grant the variance subject to the conditions that the Department complete construction of its tertiary lagoons by February 1972; that the Department abandon the Vernon Hills STP as a treatment facility after the New Century Town plant is in operation and; that the Department submit quarterly reports to the Board and the EPA on the progress to date.

One final note, there was some considerable record discussion as to the commencement of the ninety day period by which this Board must make a decision on the instant variance request. Our rule states that "A variance proceeding shall be commenced by filing a petition for variance with the Agency and by filing ten copies of the petition with the Clerk of the Board." (Pollution Control Board Regulations 401(a), emphasis added). The instant request was filed with the Board on October 28, 1971. The clock started running on that date.

This opinion constitutes the Board's findings of fact and conclusions of law.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the Board adopted the above Opinion on the 3rd day of February, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board

