

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1990

CITY OF MT. VERNON,)
)
 Petitioner,)
)
 v.) PCB 90-228
) (Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On December 7, 1990, the City of Mt. Vernon filed a petition for variance for its water treatment plant located in Mt. Vernon, Illinois. That petition is deficient in that it fails to provide:

1. A clear and complete statement of the precise extent of the relief sought, including specific identification of the particular provisions of the regulations or Board Order from which the variance is sought, as required by 35 Ill. Adm. Code 104.121(a).

In this regard Mt. Vernon seems to request relief from the consequences of restricted status found at 35 Ill. Adm. Code 602.106, yet seeks relief from the substantive health standards of Section 604.202 and 604.203. The Board questions whether Mt. Vernon's request might be more appropriate as a variance from Section 602.106;

2. A detailed description of the existing and proposed equipment or proposed method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation of all phases of the control program from initiation of design to program completion and the estimated costs involved for each phase and the total cost to achieve compliance, as required by 35 Ill. Adm. Code 104.121(f).

Mt. Vernon has failed to provide a copy of the Agency issued permit or to provide the Board with information on the character and timing of the improvements in water quality expected as a result of the construction.

3. A concise factual statement of the reasons the petitioner believes that compliance with the particular provisions of the regulations or Board Order would impose an arbitrary or unreasonable hardship, as required by 35 Ill. Adm. Code 104.121(k).

In particular Mt. Vernon has failed to describe what construction projects would not be allowed if restricted status would remain in place.

4. A statement of consistency with federal law as required by 35 Ill. Adm. Code 104.122.

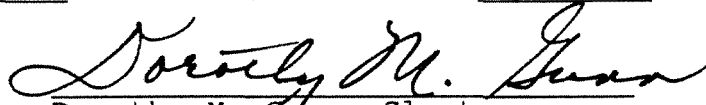
Specifically a statement as to whether the Board could grant relief from the substantive health standards of Section 604.202; and

5. A request for hearing on the petition if desired by petitioner, or, in the alternative, a statement waiving a hearing accompanied by such affidavits or other proof in support of the material facts alleged in the petition as the petitioner may submit, sufficient to enable the Board, if it so decides, to rule upon the petition without hearing, as required by 35 Ill. Adm. Code 104.124.

In addition, Mt. Vernon fails to provide a termination date for expiration of the requested variance. Unless an amended petition is filed within 45 days of the date of this Order, curing the above-noted defect(s), this matter will be subject to dismissal. The Board notes that for purposes of calculation of the decision deadline pursuant to Section 38 of the Act, the filing of an amended petition will restart the Board's 120 day deadline.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 20th day of December, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board