

ILLINOIS POLLUTION CONTROL BOARD
November 3, 1988

IN THE MATTER OF:)
)
PETITION OF THE CITY OF)
JOLIET FOR A SITE SPECIFIC)
RULE FOR THE EAST SIDE) R84-20
JOLIET WASTEWATER TREATMENT)
FACILITY)

PROPOSED RULE. SECOND NOTICE.

PROPOSED OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a May 29, 1984 petition for site specific rulemaking filed by the City of Joliet. Joliet asks that its East Side Wastewater Treatment Plant (EWTP), which discharges into Hickory Creek, be exempted from the effluent limitations for biochemical oxygen demand (BOD) and suspended solids (SS) applicable to Hickory Creek. Those limitations, found at 35 Ill. Adm. Code 304.120(c), are 10 milligrams per liter (mg/l) and 12 mg/l, respectively. Instead, Joliet requests that the discharges from EWTP be subject to the BOD and SS limitations applicable to the Des Plaines River. Those standards, set forth at 35 Ill. Adm. Code 304.120(b), are 20 mg/l BOD and 25 mg/l SS.

On June 30, 1988 the Board proposed for First Notice a rule giving Joliet the requested relief for five years. This five-year period will allow Joliet to conduct water quality monitoring for approximately three years, and still have time to petition the Board for permanent relief if the monitoring results are positive. The proposed rule was published in the Illinois Register on July 15, at 12 Ill. Reg. 11669. The Board's rationale for proposing the rule is set forth in the Proposed Opinion of June 30, 1988.

The Board received only one public comment during the First Notice period. The Department of Commerce and Community Affairs stated that the proposed rule will have no effect on small businesses regulated by the rule. (P.C. #8.) The Board notes that the proposed rule regulates only Joliet's EWTP.

After the close of the First Notice period it came to the Board's attention that under a proposed federal consent decree, Joliet would pay a \$160,000 civil penalty to resolve a federal enforcement action alleging Clean Water Act violations at the EWTP. (U.S. v. Joliet, DC N. Ill. No. 88-5561.) The consent decree also requires Joliet to attain and maintain compliance with its permit, upgrade facilities to meet secondary treatment

standards, construct a single-stage nitrification facility, and take measures to ensure proper operation and maintenance of the EWTP. On September 22, 1988 the Board adopted an order directing Joliet and the Agency to comment on any relation between this rulemaking and the federal consent decree. The Agency filed its response on October 26, 1988, and Joliet submitted its response on October 28, 1988.

Both the Agency and Joliet submit that the consent decree and this rulemaking are related and consistent. Joliet states that the primary purpose of the consent decree is to assure that the city continues with the construction program identified in its municipal compliance plan. (That compliance plan is discussed on pages 2 and 3 of the Board's June 30, 1988 First Notice Order, and is Exhibit F in this docket.) This rulemaking is a part of that municipal compliance plan, and thus is an approved part of the consent decree. The Agency states that the site-specific relief sought by Joliet in this proceeding was approved by the Agency during the settlement discussions between Joliet and the Agency, and that the United States Environmental Protection Agency (USEPA) also concurs with the site-specific relief. Joliet summarizes the situation by declaring that the construction of facilities, the request for site-specific relief, and the terms of the consent decree have been coordinated to result in compliance with the effluent limitations for the Des Plaines River.

The Board finds that the federal consent decree and this rulemaking are consistent, and thus will propose the site-specific rule for Second Notice. The Board does wish to note, however, its concern that it was not told of the federal enforcement action and consent decree during the course of this proceeding. According to Joliet's response, discussions about a proposed consent decree were begun in late 1986 and continued through May 1988. However, no mention of these discussions was made either at the March 1988 hearing or in post-hearing comments. If either the Agency or Joliet had explained the pending discussions at that time, this proceeding could probably have been shortened by at least one month.

ORDER

The Board hereby proposes the following amendments for Second Notice, which are to be filed with the Joint Committee on Administrative Rules.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 304
EFFLUENT STANDARDS

SUBPART C: TEMPORARY EFFLUENT STANDARDS

Section 304.302 City of Joliet East Side
Wastewater Treatment Plant

This Section applies only to the City of Joliet's East Side Wastewater Treatment Plant which discharges into Hickory Creek in Will County, Illinois. The discharges of that plant shall not be subject to the standards of Section 304.120(c), provided that those discharges meet the five day biochemical oxygen demand (BOD) and suspended solids limitations of Section 304.120(b). This Section will expire on January 1, 1994.

IT IS SO ORDERED.

R. Flemal was not present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Proposed Opinion and Order was adopted on the 3rd day of November, 1988, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board