

ILLINOIS POLLUTION CONTROL BOARD  
March 10, 1988

BLOOMINGTON/NORMAL SANITARY DISTRICT,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 87-207
	)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

JEFFEREY C. FORT AND JAMES J. DENAPOLI APPEARED ON BEHALF OF THE PETITIONER.

KATHLEEN C. BASSI APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on a Petition for Variance filed by the Bloomington/Normal Sanitary District (District) on December 23, 1987. Specifically, the District is seeking a variance from 35 Ill. Adm. Code 304.120(c), 304.141(a) and from certain conditions of the Board's Order in PCB 86-202 which was issued on February 5, 1987. The District requests variance from these provisions until April 15, 1988 with the condition that the District's effluent does not exceed 25 milligrams per liter (mg/l) biochemical oxygen demand (BOD) and 25 mg/l total suspended solids (TSS).

In its petition, the District waived its right to a hearing and no members of the public filed a written objection with the Board. Consequently, no hearing was held in this matter. The Board granted the Illinois Environmental Protection Agency's (Agency) Motion to file the Agency Recommendation Instanter on February 25, 1988. The Agency is recommending that the variance be granted subject to certain conditions.

Essentially the District is requesting that the variance which the Board granted in PCB 86-202 be extended until mid-April. According to the District, it has been able to comply with all of the terms and conditions of that variance except for the final compliance date and the dates associated with steps 13 through 19 of the compliance schedule. (Pet. p. 2; see Opinion and Order PCB 86-202 slip. op. at 2-3, February 5, 1987). The reason for this variance as well as the previous variance is the need of the District to repair and replace the tertiary filters at its wastewater treatment plant. The District has encountered unexpected delays in this construction process which according to the District requires this variance. The Board will not review

in detail the specific reasons behind the delays; those reasons are set forth in the Petition. Similarly, the Board will not review all the factual matters concerning the existing wastewater treatment plant as well as the new improvements. This information is outlined in the Board's February 5, 1987 Opinion in PCB 86-202.

In the Petition, the District sets forth data regarding the effluent quality from the wastewater treatment plant during the months of January 1987 through September 1987. The Board notes that the monthly averages for BOD as well as TSS are within the 25/25 standard which was set forth by the previous variance. (Pet. p. 12).

The District also sets forth a new schedule for compliance. Essentially, the District proposes to complete construction on March 1, 1988. The facility should be fully operational by March 15, 1988 and the District requests that the variance terminate on April 15, 1988.

In the Agency's Recommendation, the Agency presents data which also indicates that the Petitioner has met the variance limits for BOD and TSS through November of 1987. With regard to the environmental impact, the Agency concludes:

Due to the quality of the Petitioner's effluent and to the relatively short period of time requested in the variance petition. Little or no adverse impact is expected.

(Ag. Rec., p. 3)

The Agency agrees with the Petitioner that the reasons for delay in achieving compliance are due to matters beyond the District's control. (Ag. Rec., p. 4; Petition, p. 15).

Given the record in this matter, the Board finds that to deny a variance in this instance would impose an arbitrary or unreasonable hardship on the District. Therefore, the Board will grant a variance to the District from January 1, 1988 until May 1, 1988 subject to the conditions which were recommended by the Agency. Specifically, the Board is granting a variance from Sections 304.120(c) and 304.141(a). The Board realizes that the Petitioner does not wish to be held to the deadlines of certain steps of the compliance schedule set forth by the February 4, 1987 variance Opinion. The Board's Order today will supersede that previous Order to the extent that the two are in conflict. The Board notes that in the Agency's Recommendation, the Agency recommends that the variance be granted from January 1, 1988 to April 15, 1988. Usually, the Board does not grant a retroactive variance. In this instance, the need for a variance was caused by unexpected construction delays. The District appears to have made a good faith effort to comply with Board regulations.

Consequently, the Board will grant a retroactive variance. The Board is granting the variance until May 1, 1988. This will give the District two more weeks which may be needed if further construction delays are experienced; it will help prevent the possibility of a future short-term variance request.

This constitutes the Board's finding of fact and conclusions of law in this matter.

ORDER

The Board hereby grants the Bloomington/Normal Sanitary District (District) variance from 35 Ill. Adm. Code 304.120(c) and 304.141(a) subject to the following conditions:

- 1) This variance shall begin on January 1, 1988 and expire on May 1, 1988, or upon returning the tertiary filters to service, whichever occurs first.
- 2) The District shall complete construction by March 1, 1988, and the wastewater treatment facility shall become fully operational by March 15, 1988.
- 3) The District shall provide monthly progress reports on the status of the repair of the filters. Progress reports shall be submitted with the Discharge Monitoring Reports.
- 4) During the period of the variance, the effluent shall be limited to 25 mg/l five-day biochemical oxygen demand (BOD<sub>5</sub>) and 25 mg/l total suspended solids (TSS), measured as a weighted monthly average of the three effluents.
- 5) The District shall continue to monitor its effluent as stated in its NPDES permit.
- 6) The District shall continue its biomonitoring program.
- 7) The District shall continue to operate the rest of its treatment facilities as efficiently as possible so as to produce the best effluent possible.
- 8) The District shall notify Pat Lindsey of the Agency's Compliance Assurance Section by telephone at (217) 782-9720 when the tertiary filters are returned to service. Written confirmation of the telephone notification shall be submitted within five days to the Agency at the following address:

Illinois Environmental Protection Agency  
 Division of Water Pollution Control  
 Compliance Assurance Section  
 2200 Churchill Road, P.O. Box 19276  
 Springfield, IL 62794-9276  
 Attention: Pat Lindsey

- 9) Within 45 days of the date of the Board's Order, the Petitioner shall execute a certificate of acceptance and agreement, which shall be sent to Mr. James Frost of the Agency at the following address:

Mr. James Frost  
 Illinois Environmental Protection Agency  
 Division of Water Pollution Control  
 2200 Churchill Road, P.O. Box 19276  
 Springfield, IL 62794-9276

This variance will be void if the Petitioner fails to execute and forward the certificate within the 45-day period. The form of the certificate of acceptance shall be as follows:

CERTIFICATION

\_\_\_\_\_ (Petitioner) hereby accepts and agrees to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 87-207 dated March 10, 1988.

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 Authorized Agent

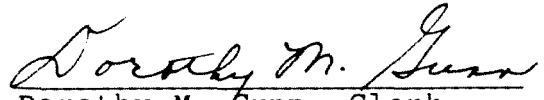
\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985 ch. 111 1/2 par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10<sup>th</sup> day of March, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board