

ILLINOIS POLLUTION CONTROL BOARD
April 4, 1985

CITY OF CARLYLE,)
)
 Petitioner,)
)
 v.) PCB 84-171
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY)
)
 Respondent.)

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

This matter comes before the Board upon a petition for variance extension filed by the City of Carlyle (City) on November 19, 1984 and amended on January 9, 1985 in response to a November 21, 1984 Board Order. The City requests a variance from the 15 mg/l total suspended solids (TSS) effluent standard of 35 Ill. Adm. Code 304.124(a) for its drinking water treatment plant (WTP) discharge to the Kaskaskia River. The present variance expires October 1, 1985. The Agency filed its recommendation on February 7, 1985. The Agency objected to grant of variance. The objection was not timely pursuant to Section 37 of the Environmental Protection Act (Act) and 35 Ill. Adm. Code 104.141. The City waived hearing and none was held. A more thorough, factual and historical background of the case is contained in the prior Opinion and Order in PCB 82-35, 47 PCB 265 (June 10, 1982) which, along with the record, is incorporated into this proceeding.

The City's proposed structural solution to its sludge disposal problem was to construct sludge lagoons, a lift station and force main. The site it chose is a park with three ponds. Under the plan, two ponds will be drained and modified to act as sludge lagoons. The total project cost is cited as \$246,000 (Am. Pet. at 4). The capital cost averaged over ten years at eleven percent interest, is \$41,800 (Am. Pet. at 5). Operation and maintenance costs are estimated at \$15,000 annually. The facility will cost the average user \$2.50 per month (Id.)

According to the City's figures, the City discharges a maximum flow of 14,550 gallons per day of backwash water and 190,000 gallons per month of settling tank sludge with solids concentrations of 378 mg/l and 1100 mg/l, respectively (Am. Pet. at 6). The low flow in the river is 41 cubic feet per second. The dilution ratio is 16 to 1 (Id.).

During the term of the prior variance, the capacity of the water treatment plant was expanded from one million gallons per day (MGD) to 1.5 MGD to provide water to the homes in the Hoffman District where wells had excessive total coliform and nitrates. The variance was conditioned on the ability of the City to meet a two phase plan. The first phase included construction of a water distribution system for the District, which was financed by the Farmers Home Administration (FmHA) for \$1,660,000. The second phase provided for sludge treatment at the WTP by the end of the variance period.

On or about September 23, 1983, the City submitted the identification of a sludge control site (a park with three existing ponds), the results of a soils investigation of the site and the preliminary costs of the proposed project. The City spoke to the Agency in March 1984 about the possibility of site-specific relief.

The City had a specific compliance timetable to meet in PCB 82-35. Contracts were to be let by December 31, 1984 and construction to begin by February 1, 1985. The City's proposed timetable in its amended petition has contract letting on November 30, 1986 and construction beginning on December 15, 1986. Apparently, the City has determined to study the environmental impact of sludge discharge to the Kaskaskia before it complies with the timetable ordered by the Board in PCB 82-35. This decision was reached more than one year after the September 21, 1983 date when the PCB 82-35 project should have proceeded pursuant to Board Order. This year delay is reflected in the timetable presented to the Board in the amended petition (Am. Pet. at 8). No reason for this significant delay was presented by the City. After its meeting with the Agency in March 1984 regarding the feasibility of filing for site-specific relief, the City should have known that it would need an environmental study. Instead of taking timely action, the City waited an additional eight months to file for variance extension, claiming that it needed fifteen more months to study the impact on the riverine environment, prior to filing for site-specific relief. If the City had taken prompt action, the study would have been well underway by the end of 1984.

The City asserts that an arbitrary or unreasonable hardship would exist if it had to comply with the TSS effluent standard after September 30, 1985. It cites the economic impact study (EcIS, Doc. No. 83/03) in the Alton site-specific regulatory proceeding, R82-3 (See 54 PCB 185, 56 PCB 47) as support for its hardship claim: mainly, that the cost to comply imposes a hardship when compared to the "...probable nonexistent detriment to the environment of the Kaskaskia River...by allowing the continuation of present sludge disposal methods." (Am. Pet. at 7).

The Board notes that the Alton case was unique on its facts. Among other things, the Board notes that the dilution ratio in the Kaskaskia is substantially less than that of the Mississippi River.

The City provides little information to support its contention that treating the discharge would be an economic hardship. The proposed project is technically feasible and will cost about \$2.50 per user per month. The approximate costs of compliance was known when the City agreed to the original two phase project. The City has failed to provide the Board with any compelling reason why the expenditures that were agreed to in PCB 82-35 should now be considered as constituting an arbitrary or unreasonable hardship. Indeed, any hardship incurred due to rising costs or changing conditions is self-imposed in so far as the City has delayed phase two without explanation.

Data on the environmental impact of the grant of variance is sorely lacking in the petition as it was in the PCB 82-35 petition. The City concludes that there would be a "nonexistent detriment to the environment" if the variance were granted yet asks for time "to conduct a study to determine the impact of its discharge on the River." (Am. Pet at 7). The Agency states that TSS poses a threat to fish by impairing their respiration, feeding, growth and reproduction; and impairs photosynthesis and respiration of other aquatic biota (Ag. Rec. at 4,5). The extension of this variance cannot be justified by conclusory allegations of no environmental detriment. No environmental data were submitted by the City in connection with the instant petition and no data were submitted in connection with the original petition.

The Board finds that the City has failed to justify its request for variance extension or to show that an arbitrary or unreasonable hardship would result if it complied with the standard. Therefore, the Board denies the City's request for an extension of its variance from the TSS effluent standard of 35 Ill. Adm. Code 304.124(a).

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

ORDER

The City of Carlyle is hereby denied a variance for its water treatment plant from the TSS effluent standard of 35 Ill. Adm. Code 304.124(a).

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 4th day of April, 1985 by a vote of 5-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board