

ILLINOIS POLLUTION CONTROL BOARD
January 21, 1982

CITY OF MARION,)
)
) Petitioner,)
)
) v.) PCB 81-169
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter comes before the Board on the October 28, 1981 petition for variance filed by the City of Marion (City). The City seeks variance until November, 1982 from the wastewater treatment plant operator certification requirement of Rule 1201 of Chapter 3: Water Pollution. On December 14, 1981 the Illinois Environmental Protection Agency (Agency) filed its Recommendation in support of grant of variance. Hearing was waived and none has been held.

The City of Marion, Williamson County, owns and operates a wastewater treatment plant serving its population of approximately 14,500. The Agency currently classifies this plant as a Group A facility, requiring it to be supervised by a Class I operator. Since the plant became operational in April, 1978, it has been operated under the supervision of Mr. Ron McKinney. Mr. McKinney, a City employee for the past 14 years, has been certified as a Class II operator for 7 years, and is currently taking correspondence coursework necessary to qualify him to take the Class I operator's examination.

In support of its petition, the City states, without elaboration, that denial of variance might cause Mr. McKinney to leave the City's employ. The City believes that a replacement hiring of an "outside Class I operator would command more dollars than is allocated in the budget causing a financial hardship to the City" (Pet. ¶6).

Agency personnel having personal knowledge of Mr. McKinney's abilities and past performance characterize Mr. McKinney as a "conscientious operator," who would be "capable of operating the City's plant effectively if it were not for the faulty [rotating biological contactors] installed at the facility" (Rec. ¶1). The Agency further notes that it anticipates that revised operator

certification procedures may be promulgated and effective as final rules in late January or early February, 1982. If the procedures as proposed in the Illinois Register, October 30, 1981, are adopted without change, due to his operating experience Mr. McKinney would be eligible to take the Class I examination immediately, without completion of further coursework. The Agency accordingly recommends that variance be granted, conditioned in part on the taking of certain actions within 60 days of the promulgation of the revised procedures.

The Board finds that denial of variance would impose an arbitrary or unreasonable hardship. The Board is persuaded that no environmental harm will occur as a result of Mr. McKinney's continued supervision of the City's plant, as demonstrated by the evidence presented concerning the plant's performance and concerning Mr. McKinney's continued efforts to comply with certification requirements. Variance is accordingly granted until November 1, 1982. The Board declines to specifically condition this variance upon adoption of revised certification procedures, but will instead require that Mr. McKinney proceed to obtain Class I certification under the applicable procedures as expeditiously as is practicable.

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

ORDER

1. The City of Marion is granted a variance from Rule 1201 of Chapter 3: Water Pollution Rules and Regulations for a period to terminate November 1, 1982 under the following conditions:

a) Ron McKinney shall proceed to obtain Class I operator certification pursuant to applicable procedures as expeditiously as is practicable.

b) If Ron McKinney is properly certified by the Agency as a Class I operator before November 1, 1982, this variance shall terminate at such earlier time.

c) If Ron McKinney terminates his employment as operator of the City's wastewater treatment plant before November 1, 1982, this variance shall terminate at such earlier time.

d) The City's wastewater treatment plant shall be operated according to the best practicable operation and maintenance procedures for the facility.

2. Within 45 days of the date of this Order, the City of Marion shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Variance

Unit, 2200 Churchill Road, Springfield, IL 62706, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-169 dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 21st day of January, 1982 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board