

ILLINOIS POLLUTION CONTROL BOARD
October 19, 1978

CITY OF EAST ST. LOUIS,)
)
 Petitioner,)
)
 v.) PCB 78-217
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter comes before the Board on the Petition filed on August 14, 1978, by the City of East St. Louis seeking a variance for an indefinite period of time from Rule 1201 of Chapter 3: Water Pollution Regulations which requires that Petitioner's sewage treatment works be operated by a person with the credentials of a Class 1 operator. No hearing was set for this variance proceeding; Petitioner properly waived hearing in accordance with Procedural Rule 401(h). On September 22, 1978, the Environmental Protection Agency filed a Recommendation to deny the City of East St. Louis the requested relief. While Petitioner may file an Amended Petition requesting hearing within 7 days after receipt of the Agency Recommendation pursuant to Procedural Rule 406(b), the Board received no filing under 406(b) from the City of East St. Louis.

The City of East St. Louis owns and operates a primary treatment facility which discharges an average daily flow of 14 million gallons to the Mississippi River containing average BOD₅/SS concentrations of 120 mg/l and 180 mg/l respectively and variable levels of fecal coliform and pH (Pet. 2).

Petitioner requests this variance from the Class 1 operator requirements because of its difficulty in retaining plant managers who have attained the Class 1 operator status.

The City of East St. Louis claims that Class 1 operators have voluntarily terminated employment with Petitioner for higher paying positions. The Agency contacted two former Class 1 employees of the Petitioner on September 6, 1978, who reported to the Agency that each took pay cuts in order to leave the City of East St. Louis (Rec. 1).

Petitioner also stated that its current Plant Manager, Mr. Ronald McCloud, a Class II operator, was expected to enroll for and take the Class I examination scheduled for September 14, 1978. However, the Agency reports that Mr. McCloud is not eligible for the Class I examination until he completes approximately three years of additional work experience or additional course work and that he had not applied for the September 14, 1978, Class I operator examination (Rec. 1, 2). Additionally, the Petition requested the grant of a variance for an indefinite period of time, contrary to the requirement of Rule 401(a)(6) and beyond the Board's authority under the Environmental Protection Act.

On the basis of the information before us, the Board has no alternative but to deny the request. Denial of this variance does not require that Petitioner cease and desist the operation of the primary treatment facility nor does it preclude the City of East St. Louis from resubmitting a new Petition for the same relief containing updated information and a definite schedule for compliance.

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

ORDER

The Petition for Variance from Rule 1201 of Chapter 3: Water Pollution Regulations is hereby dismissed.

IT IS SO ORDERED.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 19th day of October, 1978 by a vote of 4-0.



Christian L. Moffett, Clerk
Illinois Pollution Control Board