

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

CITY OF BENTON,)
)
) Petitioner,)
)
) v.) PCB 79-227
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

On October 31, 1979 Petitioner filed for a variance from the fecal coliform monitoring requirements of Rule 405 and Rule 501 of Chapter 3: Water Pollution. An Amended Petition was filed on November 26, 1979. The Agency has recommended that a variance be granted for 5 years for Petitioner's Northwest plant or until Petitioner's upgraded plant becomes operational or until a decision is rendered on the proposed rule change in R77-12, Docket D. The Agency further recommends that the request for relief from Rule 405 for Petitioner's Southeast plant be denied.

Petitioner is presently in Step I Preliminary Planning for new treatment facilities which will include chlorination facilities. Wastewater treatment plants are located in two areas, one northwest of the city with a design capacity of 1.4 million gallons per day (MGD) which discharges into Sugar Creek, a tributary of the Big Muddy River, and a lagoon system with a design capacity of 0.06 MGD southeast of the city which chlorinates, and discharges into an unnamed creek tributary of the Middle Fork of the Big Muddy River. Petitioner's system is operating under NPDES Permit Nos. IL 0022365 and IL 0047163. A schedule of compliance for Petitioner to upgrade the existing facilities to comply with State and Federal Water Pollution Regulations has been established by the Agency with start-up of Petitioner's new plant projected for November, 1983.

Although Petitioner has indicated that there are no public water supplies or bathing beaches within 20 miles of Petitioner's discharge, Petitioner has failed to provide

information on whether its discharge would have a detrimental effect on other recreational or public uses of the water such as fishing, canoeing or wading. Also, Petitioner claimed that fecal coliform monitoring is impossible due to inadequate laboratory facilities and that an arbitrary or unreasonable hardship would be imposed on Petitioner should expansion of its present laboratory facilities be required. However, Petitioner has not shown that alternative methods of analysis for monitoring fecal coliforms by private laboratories or other facilities are prohibitive.

The Agency has recommended that the Petition for Variance be granted for Petitioner's Northwest plant for a period of 5 years or until Petitioner's upgraded plant becomes operational or until a decision is reached on the proposed rule change in R77-12, Docket D. The Board finds a five year variance is unwarranted due to Petitioner's failure to include sufficient information, and grants a variance for a period of 6 months from the date of this Order. Petitioner may at a later date include the necessary information in seeking an extension of the time period by filing a new petition for variance pursuant to Procedural Rule 402. Relief from Rule 405 for Petitioner's Southeast plant is denied although a new petition may be filed pursuant to Procedural Rule 401.

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

ORDER

- 1) Petitioner is granted a variance from the fecal coliform monitoring requirements of Rule 405 and Rule 501 of Chapter 3: Water Pollution for its Northwest plant for a period of six months from the date of this Order.
- 2) Petitioner is denied relief from the fecal coliform monitoring requirements of Rule 405 for Petitioner's Southeast facility.
- 3) The Agency is authorized to modify Petitioner's NPDES permit No. IL 0022365 in a manner consistent with the terms of this Order including terms and conditions consistent with best practicable treatment, operation and maintenance of Petitioner's facilities.

- 4) Within 45 days of the date of this Order, Petitioner shall execute a certification of acceptance and agreement to be bound by all the terms and conditions of this variance. The Certification shall be forwarded to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706. This 45 day period shall be held in abeyance if this matter is appealed. The form of the Certification shall read as follows:

CERTIFICATION

I, (We), _____, having read and fully understanding the Order in 79-227 hereby accept that Order and agree to be bound by all of its terms and conditions.

SIGNED _____
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 were adopted on the 7th day of February, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board