

ILLINOIS POLLUTION CONTROL BOARD  
April 7, 1988

CITY OF WENONA, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 88-62  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This provisional variance request comes before the Board upon an April 6, 1988 Recommendation of the Illinois Environmental Protection Agency (Agency). The Agency recommends that because of an arbitrary and unreasonable hardship, the Petitioner, City of Wenona, be granted a provisional variance, subject to certain conditions, from 35 Ill. Adm. Code 304.141(a) and 302.209(b) to allow for the cleaning, repair and upgrading of its primary lagoon.

Petitioner owns and operates a wastewater treatment facility which consist of main lift station, primary lagoon, secondary lagoon and chlorination. Design average flow is 0.16 MGD and effluent is discharged to an unnamed tributary to Sandy Creek which discharges into the Illinois River.

Petitioner presently is required by its NPDES Permit to meet monthly average (interim) effluent limitations of 30 mg/l BOD, and 60 mg/l suspended solids. Fecal Coliform is limited to a daily maximum of 400 colonies per ml.

The Petitioner has stated that the repair and upgrading of its lagoons is needed to satisfy a Municipal Compliance Plan (MCP). Petitioner has also stated that it is necessary to bypass the primary lagoon and treat in the secondary lagoon during this project. The Agency agrees with these statements. The Petitioner has stated that only one lagoon will be out of service at any time.

The Petitioner requested the variance for BOD, suspended solids, Fecal Coliform and Ammonia Nitrogen. However, according to the Agency, the evidence presented by the Petitioner indicates that the treatment provided by the remaining secondary lagoon will meet their current NPDES limit of 60 mg/l for suspended solids. The Petitioner's permit does not contain specific

effluent limits for Ammonia Nitrogen. Therefore, the Agency considered the request to be for BOD and Fecal Coliform only.

The Petitioner has stated, and the Agency agrees that the environmental impact caused by the primary lagoon being out of service will be minimal.

There are no public water supplies which would be adversely affected by granting this provisional variance. The closest downstream water supply is Peoria Water Company, approximately 45 miles downstream.

There are no federal laws which would preclude the granting of this variance.

Petitioner claims that the refusal to grant the requested variance will impose an arbitrary and unreasonable hardship. The Agency states that it is supporting the hardship in this provisional variance based on the assumption that the Petitioner only recently became aware of the variance need and insufficient time was available to request a standard variance in lieu of the proximity of the July 1, 1988 compliance deadline. The Agency therefore recommended provisional variance.

Pursuant to Section 35(b) of the Illinois Environmental Protection Act, the Board hereby grants the provisional variance as recommended.

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

#### ORDER

The City of Wenona, Petitioner, is hereby granted a provisional variance from the requirements of 35 Ill. Adm. Code 304.141(a) BOD and 302.209(b) Fecal Coliform, subject to the following conditions:

- a) This variance shall commence upon initiation of bypassing of the primary lagoon and continue for a period of 45 days or until the primary lagoon is returned to service or until July 1, 1988, whichever occurs first.
- b) The Petitioner shall be in compliance with final NPDES permit limitations no later than July 1, 1988.
- c) During the period of the variance, the effluent discharged shall be limited to

a monthly average BOD of 40 mg/l.

- d) Petitioner shall notify Tom Meyer of the Agency's Peoria Regional office via telephone at 309/693-5463 when bypassing of the primary lagoon is begun and when the primary lagoon is returned to service. Written confirmations of each notifications shall be sent within 5 days to the following addresses:

Illinois Environmental Protection  
Agency  
5415 North University Avenue  
Peoria, Illinois 61614  
Attn: Tom Meyer

Illinois Environmental Protection  
Agency  
Compliance Assurance Section  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

- e) The sludge contents of the lagoon shall be disposed of by the Petitioner in a manner acceptable to the Agency.
- f) During this provisional variance Petitioner shall operate its wastewater treatment facility so as to produce the best effluent practiceable. Additionally, Petitioner shall perform the necessary repair work on the lagoons as expeditiously as possible so as to minimize the period of time they are out of service.
- g) Within 10 days of the dates of the PCB Order, Petitioner shall execute a Certificate of Acceptance and Agreement which shall be sent to Mark Books at the Springfield address indicated above.

This variance shall be void if Petitioner fails to execute and forward the certificate within the ten day period. The ten day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), City of Wenona, having read the Order of the Illinois Pollution Control Board, in PCB 88-62, dated April 7, 1988, 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

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 7<sup>th</sup> day of April, 1988 by a vote of 7-0.

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