

ILLINOIS POLLUTION CONTROL BOARD
May 29, 1984

CITY OF TUSCOLA,)
)
Petitioner,)
) PCB 83-77
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

MR. RICHARD KISSEL AND MS. CAROL DORGE OF MARTIN, CRAIG, CHESTER & SONNENSCHNEIN, AND MR. JAMES LEE, CITY ATTORNEY, APPEARED ON BEHALF OF PETITIONER.

MR. BRUCE CARLSON APPEARED ON BEHALF OF RESPONDENT.

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

This matter comes before the Board upon a June 21, 1983 petition for variance filed by the City of Tuscola (City) requesting relief from 5-day biochemical oxygen demand (BOD₅) and suspended solids (SS), 35 Ill. Adm. Code 304.120(c); sewage treatment plant bypass, Section 306.305; phosphorus, ammonia nitrogen and un-ionized ammonia, Section 304.105 as it relates to Sections 302.205 and 302.212. Amended petitions were filed on July 26 and December 7, 1984, and on February 29, 1984. The Illinois Environmental Protection Agency (Agency) filed recommendations on August 26, 1983 and on April 2, 1984. Members of the public and the press attended the hearing in Tuscola, Illinois on January 19, 1984. The requested variance period originally was from May 1, 1983 to August 31, 1984. Presently the requested term is February 29 to August 31, 1984. The City waived the 90 day decision period on September 29, 1983.

Tuscola is located in Douglas County, Illinois and has a population of 4600. The City owns and operates the north and south sewage treatment plants. The south plant is 20 years old and consists of primary sedimentation and conventional activated sludge treatment. It has a design average flow of 0.614 million gallons per day (MGD). Its design maximum flow is 1.535 MGD. Discharge is to Scattering Fork Creek which discharges to the Embarras River. This river flows to Charleston where water is pumped into a side channel reservoir for use by the City. The north plant was built in 1938 and consists of secondary treatment. The design average flow was 0.28 MGD but under current standards it is 0.2 MGD. The design maximum flow is 0.65 MGD. During wet weather excess

flow bypasses this plant. Discharge is to Hayes Branch, to the Hackett Branch, to Scattering Fork Creek approximately 3.2 miles downstream of the south plant outfall, and then to the Embarras River.

Petitioner has been in the Construction Grants Program for upgrading its wastewater treatment plants since 1974. The original compliance plan was to close the north plant, route its wastewater to the south plant by a forced main, and to include tertiary treatment, nitrification and phosphorus removal at the south plant. The cost of the plan is 6.1 million dollars, 75% of which the City expected would be funded by the government. A construction permit was issued for the south plant modifications but the City failed to take timely grant related action pursuant to 35 Ill. Adm. Code 304.140. The City cannot now obtain 75% federal grant funding but may be eligible for 55% grant funding.

The City requests a short-term variance to allow time to discuss with the Agency alternative compliance plans. The Agency states that review criteria for the design of wastewater treatment facilities have changed since evaluation of the City's Facilities Plan in 1978. Construction costs are expected to be significantly different as are treatment alternatives. Re-evaluation and design of the City's wastewater treatment system will be undertaken and a final compliance plan will be due on August 31, 1984 (First Amended Recommendation at 8).

The City's failure to proceed in a timely fashion in order to qualify for a 75% federal grant is directly related to the City administration's opposition to the passage of 2 bond referenda. The Board agrees with the Agency that this failure to proceed is a self-imposed hardship. Compliance with the regulations at this time when there is a stated need for design re-evaluation, and lack of additional environmental impact during the short period of variance, would impose an arbitrary or unreasonable hardship on petitioner. The Agency recommends that the Board grant a prospective short-term variance.

The Board hereby grants the City of Tuscola a short-term variance from the date of this opinion until August 31, 1984 from 35 Ill. Adm. Code 304.120(c), 306.305, and 304.105 as it relates to Sections 302.205 and 302.212, subject to the conditions below. Retroactive relief is rarely granted and is denied herein because of the failure to proceed in a timely fashion. Tuscola has agreed in advance to comply with BOD₅ and SS interim effluent limitations which are listed in the Order below. The limits on total phosphorus and ammonia nitrogen in the Order were derived from Respondent's Exhibit 3 and Petitioner's Exhibit 11. The limits on BOD₅ and SS were based on the plants prior performance.

This constitutes the Board's findings of fact and conclusions of the law.

ORDER

The City of Tuscola, Illinois, is hereby granted variance for its north and south treatment plants from 35 Ill. Adm. Code 304.120(c), 306.305, and 304.105 as it relates to Section 302.205 and 302.212 subject to the conditions below:

1. This variance takes effect upon the date of this Order and expires on August 31, 1984.
2. During the variance period, interim effluent limitations for BOD₅ and suspended solids shall be as follows:

<u>Parameter</u>	<u>Monthly Avg. Concentration Limits (mg/l)</u>	
	<u>South Treatment Plant</u>	<u>North Treatment Plant</u>
BOD ₅	20	20
Suspended Solids	25	25

3. During the variance period, interim effluent limitations for ammonia nitrogen shall be 15 mg/l daily maximum and for total phosphorus shall be 9.3 mg/l daily maximum for both treatment plants.
4. Petitioner shall provide optimum operation and maintenance of existing wastewater treatment facilities and maximum practical flow shall be conveyed to the treatment facilities to produce as high quality of effluent as reasonably possible.
5. By August 31, 1984, Petitioner shall submit to the Agency its plan and commitment for upgrading its sewer system and treatment facilities. Submitted in conjunction therewith shall be a complete engineering report on treatment alternatives with cost assessments for each alternative.
6. Within forty-five (45) days of the adoption of the Board Order in this proceeding, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Compliance Assurance Section, 2200 Churchill Road, Springfield, Illinois, 62706, a Certificate of Acceptance and Agreement to be bound by all terms and conditions of this variance. This forty-five (45) day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

_____ hereby accepts and agrees to be bound
(Petitioner)
by all terms and conditions of the Order of the Pollution
Control Board in PCB 83-77, dated _____.

Petitioner

Title

Date

By: _____
Authorized Agent

IT IS SO ORDERED.

Chairman J.D. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution
Control Board, hereby certify the above Opinion and Order were
adopted on the 29th day of May, 1984,
by a vote of 6-0.

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