

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1984

CITY OF WHITE HALL,)
)
 Petitioner,)
)
 v.) PCB 84-126
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board upon an August 16, 1984 petition for variance filed on behalf of the City of White Hall requesting variance from the biochemical oxygen demand, suspended solids and ammonia nitrogen effluent limitations applicable to its wastewater treatment facility.* On September 17, 1984, the Illinois Environmental Protection Agency (Agency) filed a recommendation that variance be dismissed as moot. The City did not respond to that recommendation. Hearing was waived and none was held.

The City requests variance to allow maintenance work on the tertiary filter unit, and due to existing piping the activated sludge unit must be out of service for two weeks and the filter unit for one month. Thus, during the variance period flows to the plant will receive only primary treatment and disinfection.

In its recommendation the Agency chronicles the operational difficulties of the facility since the summer of 1982 and the progress toward eliminating those problems. Finally, the Agency alleges that "on August 6, 1984, Petitioner's [the City's] wastewater treatment plant operator reported that the activated sludge plant went back on-line at 9:11 a.m. on August 4, 1984" and later reported "that the filters were placed back on-line at 2:15 p.m. on August 22, 1984" (Rec. p. 5). Based on these facts the Agency recommends dismissal of the variance as moot.

* Variance is requested from 35 Ill. Adm. Code 302.208 (Chemical Constituents), 304.105 (Violation of Water Quality Standards) and 304.120(c) (Deoxygenating Wastes), although the connection between these rules and the requested relief is not completely clear.

The Board disagrees that the variance request is moot in that the Board has sometimes granted retroactive variances as a shield against enforcement where justice so demands and where such unusual relief is justified by the record. Here, there is no request for retroactive relief and the record does not support it. That is not to say that sufficient facts may not exist to support such relief; only that they are not present in this record. Furthermore, the record before the Board contains insufficient facts to support the granting of any variance.

Thus, the Board concludes that present relief is unnecessary and retroactive relief has been neither requested nor justified. Therefore, variance will be denied.

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

ORDER

The City of White Hall is hereby denied variance from '35 Ill. Adm. Code 302.208, 304.105 and 304.120(c).

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 21st day of November, 1984 by a vote of 5-0.

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