ILLINOIS POLLUTION CONTROL BOARD April 5, 1984

MIDWEST	SOLVENTS	COMPANY	OF	ILLINOIS,)		
			Per	titioner,)		
	v.)	PCB	84-5
ILLINOIS AGENCY,	ENVIRON	MENTAL P	ROT	ECTION)		
			Re	spondent.)		

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This variance request was filed by Midwest Solvents Company of Illinois ("Midwest") on January 9, 1984, seeking relief from 35 Ill. Adm. Code 304.120(b) as it relates to BOD and TSS effluent limitations. On February 10, 1984, the Agency filed a recommendation to grant the variance. No hearing was held.

Midwest owns and operates a distillery plant in Pekin, Illinois. The plant produces alcohol for beverage and nonbeverage uses, operates a feed mill, and a bottling operation.

A variance is requested for the period from December 29, 1983 to June 30, 1984, to allow Midwest to complete an expansion of the existing aeration basins which began on November 14, 1983.

Midwest determined that the best option for expansion was modification of the existing basins by making the basins deeper. In order to accomplish this, the basins must be taken out of service during the period of construction. For the first basin expansion, the existing aeration basin No. 1 is to be out of service by discharging its contents to existing aeration basins Nos. 2 and 3 and discharging all process wastewater to aeration basins Nos. 2 and 3 until construction is completed. Upon completion of construction for new aeration basin No. 1, aeration basins Nos. 2 and 3 will discharge their contents to new aeration basin No. 1 and all process wastewater will be discharged to new aeration basin No. 1 until construction is completed for the second basin. Midwest initially estimated that the construction would take 8 weeks (Pet. Br. p. 4).

On November 4, 1983, Midwest was granted a provisional variance to complete the expansion (PCB 83-159), which expired December 29, 1983 (45 days after construction began).

Adverse weather conditions interfered with work progress and by December 19, 1983, only 14 days of construction had been completed. On December 12, 1983, Midwest requested an extension of the provisional variance. On December 28, 1983, the Agency responded to Midwest by recommending that they file a standard variance request with the Board (Pet. Br. p. 6).

The provisional variance allowed Midwest the following effluent limitations:

	30 day <u>Average</u>	Daily <u>Maximum</u>		
BOD	50 mg/l	100 mg/l		
TSS	50 mg/l	100 mg/l		

The Agency has determined that allowing an average discharge of up to 50 mg/l BOD will have no measurable environmental impact during the period of the variance. This determination is based on the highest volume previously discharged (3.1 MGD or 4.8 cfs) being only 0.08% of the lowest river flow recorded (5870 cfs) at the Route 9 bridge at Pekin during Water Year 1981. Any attempt to measure the impact of the discharge using presently accepted methodologies would be inconclusive since the level of impact would fall into the level of accepted error. Also, since the flow is so small in proportion to the river flow, other sources may have a considerably larger impact. Additionally, the DMR's submitted by the Petitioner for Outfall 001 during the past year indicate there have been no BOD and TSS effluent excursions other than those experienced during the time that PCB 83-159 was in Petitioner's facility is in the category of organic chemical manufacturing for which there are no final federal regulations. Therefore, there are no federal regulations that would prohibit the Board from granting the requested relief.

This variance will be granted retroactive to December 31, 1983, for several reasons. The Board agrees that Midwest has been diligent in seeking relief on a timely basis, and that the lapse of the variance was at least partially a function of the procedural confusion surrounding the possible extension of the provisional variance.

Denial of this variance request would impose an arbitrary and unreasonable hardship for the following reasons:

- 1. Until the construction work is completed, Petitioner cannot meet its NPDES permit BOD and TSS effluent limitations due to decreased aeration basin capacity.
- 2. Construction of a temporary storage basin to store the raw wastewater during the construction period would take longer than the time required to complete the present aeration basin expansion construction.

3. Ceasing operation of the distillery would effect not only Petitioner, but also approximately 100 employees who would be laid off, and area farmers who sell their grain to the distillery as a raw material.

Midwest has requested a variance from Section 309.120(b) which the Agency has recommended granting. However, based on information in the record, it appears that Midwest is subject to Section 304.120(a), not (b). Accordingly, the Board will grant a variance from section (a), not (b). If this is not the case either party may move to modify today's Order. The Board will impose as a condition of this variance effluent limitations identical to those of the provisional variance. Midwest and the Agency have agreed on these limitations.

This Opinion constitutes findings of facts and conclusions of law in this matter.

ORDER

Midwest Solvents Company of Illinois is hereby granted a variance from 35 Ill. Adm. Code 304.120(a) subject to conditions as follows:

- 1. The variance period is retroactive to December 31, 1983.
 - 2. The variance will expire on June 30, 1984, or at the time the construction is completed, whichever occurs first.
 - 3. The sampling frequency and type shall continue as specified in Petitioner's last NPDES permit.
 - 4. Midwest shall continue expansion work to the existing aeration basins so as to restore all aeration basins to operating status as expeditiously as possible.
 - 5. During the period of this variance, Midwest shall operate and maintain its treatment facility so as to obtain the best quality of effluent possible. During the term of this variance the following effluent limitations shall apply:

	30 day <u>Average</u>	Daily <u>Maximum</u>		
BOD	50 mg/l	100 mg/l		
TSS	50 mg/l	100 mg/l		

6. Within 45 days of the date of this Order, Midwest shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-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)			hereby accept
and agree to be bound by all te			
of the Pollution Control Board	in PCB 84-5,	April 5,	1984.
D. A. I. A. J. D.	-		
Petitioner			
Authorized Agent			
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Title			
Date	bietrings		
Date			
IT IS SO ORDERED.			
I, Christan L. Moffett, Cl	erk of the I	llinois P	ollution
Control Board, hereby certify t	hat the above	e Opinion	and Order
was adopted on the 57 day of	goul,	1984 by	a vote of
6-0	V		
(Marita X	mullist	
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	llinois Poll	(1)	