



Dubuque has retained the consulting firm of Wells Engineers, Inc. to evaluate the situation, but neither Dubuque's engineers nor their consultants have found an acceptable method to reduce SS concentrations. Chemical precipitants have been investigated but seem not to be feasible. Straining seems not to have been studied.

In determining whether the variance requested should be granted, the Board must first consider the hardship. In this case a limited amount of such information is given, but it is alleged that denial could result in a shut-down of the entire facility. Variance denials, if adopted, are not shutdown orders. A source can continue to operate but is not shielded from possible prosecution. The possible overtopping of the dike could create an unnecessary economic loss.

On the other hand, the environmental impact is alleged to be minimal due to the high dilution provided by the Rock River and its already high SS levels (measured as high as 215 mg/l on August 30, 1979 and averaging over 70 mg/l from October of 1978 to October of 1979). The Board agrees. (expand).

Therefore, the Board finds that denial of the variance would cause an arbitrary or unreasonable hardship, and that the variance should be granted for the requested ninety days, subject to conditions which should help to minimize or eliminate future difficulties.

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

#### ORDER

Dubuque is hereby granted a variance from Rule 404(a) of Chapter 3: Water Pollution, until July 29, 1981, subject to the following conditions:

1. Dubuque's discharge shall not exceed a concentration of 45 mg/l SS during the period of this variance.
2. Dubuque shall submit to the Agency a study regarding its SS problem within 90 days of the Board's Order. This study shall include, at a minimum, information regarding the relationship between increased production and increased SS levels, likelihood and type of weather conditions that could cause future violations, methods for achieving compliance, and the time schedule for implementing these methods. Based upon this information, if Dubuque or the Agency feels that additional treatment methods are necessary, these methods shall be implemented prior to any future discharges that will violate the SS limitation, and in no event later than January 1, 1983.

- 3. Within 45 days of the adoption of this Order, Dubuque Packing Company shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 81-31 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

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 was adopted on the 1<sup>st</sup> day of May, 1981 by a vote of 4-0.

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