

ILLINOIS POLLUTION CONTROL BOARD  
November 29, 1979

CITY OF SULLIVAN, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 79-212  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

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

Petitioner has requested a variance from Rule 402 to the extent Petitioner's effluent must meet the Rule 203(d) standards for dissolved oxygen, Rule 203(d) and Rule 404(f) (ii)(A) of Chapter 3: Water Pollution. The Agency has recommended that a variance be granted subject to conditions. No hearing was held.

Petitioner is located in Moultrie County and operates a sewage treatment plant which serves a population of approximately 4100 with an effluent discharge into Asa Creek, approximately 2.1 miles upstream from Lake Shelbyville. Asa Creek provides a dilution ratio of 1:1. Due to this low dilution ratio the effluent must meet the 4 mg/l BOD<sub>5</sub> and 5 mg/l suspended solids requirements of Rule 404(f) of Chapter 3.

Petitioner has undertaken an investigation of methods necessary to upgrade its facilities and has complied with the Interim Requirements of its NPDES Permit No. IL 0021806 with standards of 30 mg/l BOD<sub>5</sub> and 30 mg/l suspended solids. A combined state Step 1-2-3 grant for design and construction of proposed renovations has been obtained with Step 1 Sewer System Evaluation Survey Studies completed. The proposed upgrading of the system will result in a 30 day average plant discharge of 10 mg/l BOD<sub>5</sub> and 12 mg/l suspended solids.

In February, 1976, an exception under Rule 404(f)(ii)(a) from Rule 404(f) was sought from the Agency permitting 10 mg/l BOD<sub>5</sub> and 12 mg/l suspended solids provided the dissolved oxygen water quality standard of 6.0 mg/l is maintained downstream. The Agency denied the exemption in June, 1978, concluding that the close proximity of Lake Shelbyville made the demonstration impossible.

In R77-12, Docket C, the Agency has recommended deletion of Rule 404(f) of Chapter 3 in favor of establishing a 10

mg/l BOD<sub>5</sub>, 12 mg/l suspended solids limitations for dischargers to streams contributing less than a one to one dilution ratio provided that the discharge shows compliance with the applicable water quality standard. If this demonstration cannot be made, the discharger would be required to investigate alternatives to the present discharge. Should alternatives prove infeasible or economically unreasonable, the Agency would issue a permit for a discharge of 10 mg/l BOD<sub>5</sub> and 12 mg/l suspended solids and establish a monitoring program, with the discharger, to determine the extent of impact on receiving waters.

Petitioner has offered alternative methods to its discharge which were viewed as arbitrary and causing unnecessary hardship. The Agency then suggested that the monitoring program be imposed on Petitioner.

The Board can find no rationale for the Agency's imposition of a monitoring program on the Petitioner. The imposition of such testing of the receiving waters by the Agency and Petitioner would effect a prejudgment of R77-12, Docket C. The Board has not seen any evidence to show that a community the size of Petitioner's should bear these additional costs. The Board finds that a variance is warranted for a period of 2 years or until there is a regulatory change in R77-12, Docket C.

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

#### ORDER

It is the Order of the Pollution Control Board that Petitioner be granted a variance from Rule 402 to the extent Petitioner's effluent must meet the Rule 203(d) standards for dissolved oxygen, Rule 203(d) and Rule 404(f)(ii)(A) for a period of two years from the date of this Order, or until any regulatory change in R77-12, Docket C, whichever occurs first, subject to the following conditions:

- 1). Petitioner's effluent shall not exceed 10 mg/l BOD<sub>5</sub> or 12 mg/l suspended solids;
- 2). The Agency shall modify Petitioner's NPDES Permit No. IL 0021806 in a manner consistent with the terms of this Order.
- 3). Within 45 days of the date of this Order, Petitioner shall execute a Certification of acceptance and agreement to be bound by all the terms and conditions of this variance. The Certification shall be forwarded to the Illinois Environmental Protection

Agency, Division of Water Pollution Control, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706. This 45 day period shall be held in abeyance if this matter is appealed. The form of the Certification shall read as follows:


CERTIFICATION

I, (We), \_\_\_\_\_, having read and fully understanding the Order in PCB 79-212, hereby accept that Order and agree to be bound by all of its terms and conditions.

SIGNED \_\_\_\_\_  
TITLE \_\_\_\_\_  
DATE \_\_\_\_\_

The Agency's motion for leave to file its Recommendation seven days instanter is hereby granted.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 29<sup>th</sup> day of November, 1979 by a vote of 4-0.

  
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Christan L. Moffett Clerk  
Illinois Pollution Control Board