

ILLINOIS POLLUTION CONTROL BOARD
June 22, 1978

WHEATON SANITARY DISTRICT,)	
)	
Petitioner,)	
)	
v.)	PCB 76-299
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

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

This matter comes before the Board on an Amended Petition filed March 10, 1978, by the Wheaton Sanitary District (District) requesting relief from Rule 404(f) of Chapter 3: Water Pollution Regulations. Rule 404(f) prohibits the discharge of a deoxygenating waste to a receiving stream providing a dilution ratio of less than 1:1 if the effluent discharged contains a concentration of five-day biochemical oxygen demand (BOD₅) in excess of 4 milligrams per liter and a concentration of suspended solids (SS) in excess of 5 milligrams per liter. No hearing was held in this matter; on May 4, 1978, the Environmental Protection Agency (Agency) filed their Recommendation that the variance be granted.

The Wheaton Sanitary District serves the City of Wheaton and parts of the Villages of Winfield, Carol Stream and unincorporated areas in the western portion of DuPage County. The District has undertaken a comprehensive plant improvement and sewer rehabilitation under a Step III grant awarded in 1976 and the plant improvements are nearing completion.

The effluent from the District's treatment plant is discharged to Springbrook, a tributary to the West Branch of the DuPage River. The dilution ratio afforded by Springbrook is less than 1:1 thus making the discharge subject to the requirement of Rule 404(f) unless a variance is granted. The District has requested an effluent limitation to a concentration of 10 mg/l BOD₅ and 12 mg/l SS be established (Amend. Pet. p4); the Agency recommends that the variance be granted subject to certain conditions (Rec. p3-4).

The Petition (Amend. Pet. p2) states that the Agency believes that the 404(f) requirements can only be consistently met by tertiary filtration followed by carbon adsorption. Petitioner alleges that additional capital cost of construction beyond tertiary treatment to meet the requirements of 404(f) is

in the order of \$3,000,000.00 and that the annual operation and maintenance cost increase will be approximately \$230,000.00 (Amend. Rec. p3). The Agency expresses the opinion that since compliance with the 404(f) standard will not consistently prevent violation of the dissolved oxygen standard of Rule 203(d), requiring the expenditure of such sums to meet the requirements of Rule 404(f) would impose an arbitrary and unreasonable hardship (Rec. p3).

Both the District and the Agency presented information concerning the projected effect of the District's discharge on the level of dissolved oxygen in the receiving streams (Amend. Pet. p2-3; Amend. Pet. Exhibit A & B; Rec. p2-3). The material presented indicates that even if the District were to meet the 404(f) requirements that violations of the dissolved oxygen stream standards would continue. The Agency states that the improvement in water quality in the West Branch of the DuPage River would be minimal even if the District was meeting the 404(f) limitations (Rec. p3).

In considering this variance from Rule 404(f) of Chapter 3, the Board agrees that failure to grant the relief requested would impose an unreasonable hardship in view of the pending proceedings in Docket C of R77-12 as set forth in our Opinion of June 6, 1978, in Village of Lake Zurich v. EPA, PCB 78-89. Petitioner will be granted a variance from Rule 404(f) for five years or until the Board adopts any modification to Rule 404(f) in consideration of the proceedings in Docket C of R77-12.

The Board is concerned about the dissolved oxygen problems that apparently will continue in the DuPage River system despite intensive and concerted efforts to improve point-source discharges to these waters. In view of these conditions, the Board finds that variance is also necessary from Rules 203(d) and 402 for the period of the 404(f) variance and such variance will be granted on condition that the District consider all reasonable methods for increasing dissolved oxygen levels in the plant effluent. The District will also be required to monitor for dissolved oxygen levels in the receiving waters in accordance with the Order.

The Board will direct the modification of the District's NPDES permit pursuant to Rule 914 of Chapter 3 to include such interim effluent limitations as may reasonably be achieved through application of best practicable operation and maintenance practices in the existing facilities.

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

ORDER

1. The Wheaton Sanitary District is granted a variance for its sewage treatment plant from Rule 404(f) of Chapter 3: Water Pollution Regulations until June 22, 1983, subject to the following conditions:

- a) This variance will terminate upon any modification of Rule 404(f) and the District shall comply with such revised regulations when adopted by the Board.
- b) During the period of this variance, the effluent from the District's treatment plant shall not exceed a concentration of 10 mg/l BOD₅ and 12 mg/l suspended solids.

2. The Wheaton Sanitary District is granted a variance for its sewage treatment plant from Rules 203(d) and 402 of Chapter 3: Water Pollution Regulations until June 22, 1983, subject to the following conditions:

- a) The variance herein granted shall apply only to the general dissolved oxygen standard in Springbrook and the West Branch of the DuPage River.
- b) During the period of this variance, the District shall implement all reasonable measures to increase dissolved oxygen levels in the effluent discharged from its sewage treatment plant and in the waters downstream from its discharge.
- c) The District shall monitor, and report monthly to the Agency, the dissolved oxygen levels in the receiving streams at monitoring points as shall be determined by agreement with the Agency.

3. The District, within 30 days of the date of this Order, shall request Agency modification of the District's NPDES permit to incorporate all conditions of the variance set forth herein.

4. The Agency, pursuant to Rule 914 of Chapter 3, shall modify the District's NPDES permit consistent with the conditions set forth in this Order including such interim limitations as may reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

5. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be suspended during any judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 76-299, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22nd day of June, 1978 by a vote of 5-0.

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