

ILLINOIS POLLUTION CONTROL BOARD
April 28, 1977

VILLAGE OF INA,)
)
 Petitioner,)
)
 v.) PCB 77-38
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on the petition filed on February 2, 1977, by the Village of Ina seeking variance from Rules 203(d), 402, 404(c)(iii)(D) and 404(f)(i) of Chapter 3: Water Pollution as regards dissolved oxygen. The Agency Recommendation favorable to the grant of the variance was filed on March 14, 1977.

The Village of Ina does not presently have either a sewage collection system or treatment facilities. With the assistance of a State grant, the Village proposes to construct both a collection system and treatment plant. The proposed treatment plant will discharge to an unnamed tributary of Gun Creek, approximately 2.16 miles upstream of Rend Lake. Although the Agency did offer the Village Step II and III funding for the project, that offer was contingent upon the Village obtaining a lagoon exemption. On November 3, 1976, the Agency denied the Village's request for a Rule 404(f)(i) (lagoon) exemption maintaining that a potential for dissolved oxygen depression exists in Rend Lake as a result of the proposed discharge. Agency analysis showed that under an unusual set of hydrologic circumstances an area of approximately 0.9 acres of the 18,900 acre lake might be severely affected by the proposed discharge (Rec. 4). The Village does not dispute this contention by the Agency but based upon its own analysis states that the potential for such violation is unlikely and only remote under extreme circumstances. That analysis showed that the oxygen demand of the proposed discharge would be met by the surface reaeration capability present in only 5.3 acres of the lake. The Village also points out that the oxygen production from the photosynthetic reactions which typically occur in biologically active waters was conservatively neglected in this analysis (Pet. 6). As this analysis shows, and as stated by the Agency, the potential adverse environmental impact resulting from the proposed discharge is very small (Rec. 4).

In view of this finding the Board believes that the Village is entitled to a Rule 404(f)(i) exemption. The more troublesome question is, however, whether it is necessary for this Board to grant this variance as a precondition therefor. The Board believes it is not, and that the Agency can grant this exemption in the absence of a variance grant. The Board believes that it is entirely proper in cases such as this involving short run, low flow streams which discharge into a large lake where the area of the mixing zone is minimal as compared to the total area of the lake for the Agency, when making its determination concerning compliance with the dissolved oxygen water quality standard pursuant to an exemption request, to permit the discharge a mixing zone as generally described in Rule 201 provided that no violation of the standard exists in the stream as a result of the discharge. In such a case, it is only when a dissolved oxygen violation occurs outside the mixing zone that the Rule 404(f)(i) or Rule 404(f)(ii) request should be denied.

In view of the foregoing, and since the Board finds the Village is entitled to a Rule 404(f)(i) exemption even in the absence of a variance, this request will be dismissed.

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

ORDER

The variance petition filed by the Village of Ina seeking relief from Rules 203(d), 402, 404(f)(i) and 404(c)(iii)(D) of Chapter 3 is hereby dismissed.

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 28th day of April, 1977 by a vote of 5-0.

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