

Compliance with interim effluent limitations of 65 mg/l and 200 mg/l for BOD and suspended solids on a monthly average and daily maximum basis has been shown to avoid any significant adverse environmental impact on the Illinois River. Compliance with the present standards would require curtailment of plant operations and would result in significant economic harm to Petitioner and its employees.

The Board has already held that it may grant variances from the requirements of Chapter 3 that extend beyond July 1, 1977. (See City of Peru v. EPA, PCB 77-50 (May 12, 1977); City of Quincy v. EPA, PCB 77-102 (July 7, 1977); E. W. Kneip v. EPA, PCB 77-46 (August 4, 1977); CPC International, Inc. v. EPA, PCB 77-149 (August 18, 1977); Spinney Run Farms, Inc. v. EPA, PCB 76-326 (August 18, 1977.) These cases have held that the Board will not condition a variance upon a showing that a discharger is complying with effluent limitations based upon best practicable control technology currently available (BPT). In this instance the Agency has asked that the interim effluent limitations on Petitioner's discharge be subject to change in the event that BPT effluent limitations for Petitioner's discharge are promulgated or adjudicated during the term of this variance. This argument ties variance proceedings inextricably to NPDES procedures and belies the purposes of the former in deference to the latter. No matter what the requirements of the FWPCA may be, Illinois dischargers will always be able to petition the Board for variances. The terms of a variance cannot be incorporated into a NPDES permit unless the requirements of the FWPCA are satisfied. The goals and directives of both the Illinois Environmental Protection Act and the FWPCA must both remain intact.

The Board agrees that denial of a variance would impose an arbitrary and unreasonable hardship upon Petitioner and that the proposed interim effluent limitations are reasonable. Since the subject petition was filed on June 8, 1977 the Board finds that Petitioner is entitled to retroactive application of its variance to July 1, 1977.

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:

- 1) Petitioner is granted a variance from the requirements of Rule 404(b) of Chapter 3: Water Pollution of the Board's Rules and Regulations consistent with the provisions of Public Law 92-500.
- 2) This variance shall run from July 1, 1977 to May 1, 1978.

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3) During the term of this variance, Petitioner shall comply with a monthly average effluent limitation of 65 mg/l and a daily maximum effluent limitation of 200 mg/l for BOD and suspended solids.

4) Within 35 days of the date of this Order Petitioner shall forward to the:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Variance Section
2200 Churchill Road
Springfield, Illinois 62706

a certification of acceptance and agreement to be bound to all terms and conditions of this variance. 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 7-155, hereby accept said Order
and Agree to be bound by all the terms and conditions thereof.

Signed by _____

Title _____

Date _____

I, Christan L. Moffett, Clerk of the Illinois Pollution
Control Board, hereby certify the above Opinion and Order was
adopted on the 29th day of September, 1977, by a
vote of 4-0.

Christan L. Moffett

Christan L. Moffett, Clerk
Illinois Pollution Control Board

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