

ILLINOIS POLLUTION CONTROL BOARD  
September 24, 1981

MISSIONARY SISTERS SERVANTS )  
OF THE HOLY SPIRIT, )  
 )  
Petitioner, )  
 )  
v. ) PCB 81-113  
 )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Respondent. )

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

On July 15, 1981 the Missionary Sisters Servants of the Holy Spirit filed a petition for variance from Rules 203(d) and 402 and 902(i)(1) of Chapter 3: Water Pollution as they relate to dissolved oxygen. The Illinois Environmental Protection Agency (Agency) filed a recommendation to grant the variance, subject to certain conditions, on August 17, 1981. Hearing was properly waived, and none was held.

Missionary Sisters owns and operates the Convent of the Holy Spirit. Wastewater from the convent is treated in a septic tank which is followed by intermittent sand filters and chlorination. Design average flow is 0.06 MGD and discharge is to the West Fork of the North Branch of the Chicago River. The plant is operated under NPDES Permit No. IL0026689 which expired on December 31, 1979. The Agency has advised the Missionary Sisters that the permit cannot be renewed absent the relief sought in this proceeding.

Discharge Monitoring Reports from April, 1980 to March, 1981, and Agency grab samples disclose near compliance to the NPDES Permit limitations for BOD<sub>5</sub> and suspended solids of 30 mg/l. Thirty-day averages have ranged from 1.0 to 7.25 mg/l and 5.0 to 19.75 mg/l, respectively.

The relief sought by the Missionary Sisters is essentially identical to that granted by the Board in Village of Bloomingdale v. IEPA (PCB 78-124, 32 PCB 23, Nov. 2, 1978), and the Board's reasoning in that case applies here. In Bloomingdale nearly 300 dischargers to the DuPage and Des Plaines Rivers were joined in a variance proceeding concerning depressed dissolved oxygen (DO) levels in those rivers. Demonstrations of non-contribution to violations of DO by all dischargers was held to impose an arbitrary and unreasonable hardship. Furthermore,

the Agency has indicated that had the Missionary Sisters not been overlooked by the Agency it would have been included as a joined party in the Bloomington proceeding.

The Board finds that the flows involved here are small and the quality of effluent is good. The Board further finds that a grant of variance would cause little or no adverse environmental impact and that denial of variance would cause an arbitrary and unreasonable hardship for the same reasons as expressed in Bloomington.

The Agency has recommended as a condition of variance that the Missionary Sisters shall provide proper chlorination to assure compliance with its present and any future chlorine residual and fecal coliform limitations. This is based on an allegation that the effluent's chlorine residual has not been within permit limitations since 1979 or before. Since Board regulations set no chlorine residual limitations, and since it is the Board's understanding that such limitations have, in general, been dropped from recently issued Agency permits, the Board finds such a condition to be inappropriate. Furthermore, since the Board will impose a condition that the plant shall be operated using the best practicable operation and maintenance practices and must conform with any properly imposed permit conditions, including such a condition in this variance is unnecessary.

The Board will impose a condition that the Missionary Sisters shall cooperate in the development and implementation of the Northeastern Illinois Planning Commission's (NIPC) wastewater treatment management plan. Pursuant to Section 208(b) of the Clean Water Act, NIPC has developed an areawide wastewater treatment management plan for northeastern Illinois. Therefore, under Rule 902(j)(4) of Chapter 3, the Agency cannot issue a permit which would authorize a discharge in conflict with that plan.

Although no specific time period for variance has been requested, the Agency has recommended a termination date of December 31, 1983 which is in conformity with the Bloomington variance. The Board will follow that recommendation.

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

#### ORDER

1. The Missionary Sisters Servants of the Holy Spirit are hereby granted variance from Rules 203(d), 402, and 902(i)(1) of Chapter 3: Water Pollution, as they relate to dissolved oxygen water quality until October 19, 1983, subject to the following conditions:

a. Missionary Sisters shall cooperate in the development and implementation of the NIPC wastewater treatment management plan.

b. Missionary Sisters shall operate its treatment plant using the best practicable operation and maintenance practices.

c. Within 45 days of the date of this Order, Missionary Sisters shall execute and forward to the Illinois Environmental Protection Agency, Water Pollution Control Division, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certification of Acceptance and Agreement to be bound to all terms and conditions set forth in the Order. The 45-day period shall be held in abeyance during any period in which this matter is being appealed. The form of Certification shall be as follows:

CERTIFICATION

Missionary Sisters Servants of the Holy Convent hereby accepts and agrees to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 81-113, dated September 24, 1981.

\_\_\_\_\_  
Petitioner

By \_\_\_\_\_, authorized agent

\_\_\_\_\_  
Title

Date \_\_\_\_\_

2. The Illinois Environmental Protection Agency is authorized to issue Missionary Sisters a renewed NPDES Permit consistent with the terms and conditions of the variance herein granted.

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 24<sup>th</sup> day of September, 1981 by a vote of 4-0.

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Christan L. Moffett, Clerk  
Illinois Pollution Control Board