

ILLINOIS POLLUTION CONTROL BOARD
July 23, 1981

LT. JOSEPH P. KENNEDY, JR. SCHOOL,)
)
) Petitioner,)
)
) v.) PCB 81-56
)
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY,)
)
) Respondent.)

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

On April 15, 1981 the Lt. Joseph P. Kennedy, Jr. School (School) filed a petition for variance from Rules 203(d), 402, 902(i) and 404(f) of Chapter 3: Water Pollution. On May 5, 1981, an amended petition waiving hearing was filed in response to a Board Order of April 16, 1981. An Illinois Environmental Protection Agency (Agency) recommendation to grant the variance for Rules 203(d), 402 and (902)(i)(1), subject to certain conditions, was filed on June 15, 1981. No hearing was held.

The School operates a wastewater treatment plant which serves a school for exceptional children and is located in Palos Park. Discharge was originally permitted under NPDES Permit #IL0024660. The Agency has advised the School that the permit could not be renewed without the relief sought in this proceeding.

The treatment system consists of an Imhoff tank with a dump chamber followed by intermittent sand filter units, a chlorination basin and a baffled mixing and retention tank. The discharge is located in the east-half of NE ¼ Section 30 Township 37 Range 12, East-Third-Cook County and flows into an unnamed ditch under Ford Road tributary to the Cal-Sag Canal. Eventually, these waters discharge to the Des Plaines River.

Average monthly discharge is 0.011 million gallons per day. Weekly analysis of BOD₅ and SS from February 5, 1981 to February 26, 1981 shows concentrations of 2-3 mg/l and 1-4 mg/l, respectively. Since an amendment of Rule 404 of Chapter 3 has increased the BOD₅/SS limitation from 4/5 to 10/12 mg/l, there is no proof that variance from these limitations is needed. The Board finds that variance from Rule 404(f) is unnecessary, and in fact, that rule having been deleted.

The relief sought by the School is essentially identical to that granted by the Board in Village of Bloomingdale v. EPA (PCB 78-124, 32PCB23, Nov. 2, 1978), and the Board's reasoning in that case applies here. In Bloomingdale nearly 300 dischargers to the Des Plaines and DuPage Rivers were joined in a variance proceeding regarding 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.

The Board finds that flows involved here are small and the quality of the effluent should be good. The Board finds that there would be little or no adverse environmental impact. Using the same reasoning for the School as for the joined parties in Bloomingdale, the Board concludes that a denial of variance from Rules 203(d) and 402 as they relate to DO, would constitute an arbitrary and unreasonable hardship. Variance from these rules should be sufficient to give the School its requested relief. Variance from Rules 910(a)(4) and 910(b) is, therefore, denied as unnecessary.

Pursuant to Section 208 of the Federal Water Pollution Control Act, the Northeastern Illinois Planning Commission (NIPC) has developed an areawide wastewater treatment management plan for the northeastern Illinois area which includes the portion of Cook County where the School is located. Therefore, under Rule 902(j)(4) of Chapter 3 of the Board's regulations, the School must obtain a revision of that plan to include its discharge prior to Agency approval of construction or operating permits.

The Board notes that no specific length of time was requested for variance, and the Agency made no specific recommendation in that regard. However, the Board will set a limiting date in conformity with other such variances.

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

ORDER

1. The Lt. Joseph P. Kennedy, Jr. School is hereby granted variance from Rules 203(d), and 402 of Chapter 3 of the Board's Rules and Regulations as they relate to dissolved oxygen water quality until October 19, 1983, subject to the following conditions:
 - a. The School shall obtain a modification to the NIPC wastewater treatment management plan.
 - b. The School shall operate its treatment plant using the best practicable operation and maintenance practices.
 - c. Within 45 days of the date of this Order the School shall execute and forward to the Board and to

the Illinois Environmental Protection Agency, Water Pollution Control Division, 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:

_____ hereby accepts and agrees to
Petitioner
be bound by all terms and conditions of the order
of the Pollution Control Board in PCB #81-56,
dated _____.

Petitioner

By _____, authorized agent

Title

Date _____

- 2. The School is denied variance from Rules 404(f), 910(a)(4) and 910(b) of Chapter 3: Water Pollution.
- 3. The School shall obtain the necessary construction and operating permits from the Illinois Environmental Protection Agency.

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 23rd day of July, 1981 by a vote of 5-0.

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