ILLINOIS POLLUTION CONTROL BOARD June 22, 1979

REYNOLDS META	LS COMPANY,)		
	Petit	tioner,)		
	V.)	PCB	79-89
ENVIRONMENTAL	PROTECTION	AGENCY,)		
	Respo	ondent.)		

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

Petitioner has requested a variance from Rules 203(d) and 402 (as it pertains to dissolved oxygen) of Chapter 3: Water Pollution. The Agency has recommended that a variance be granted.

On June 9, 1976 Petitioner was issued a NPDES permit which authorized the discharge of treated wastewater from Petitioner's aluminum processing plant into the Summit-Lyons Ditch in McCook, Illinois. The permit limited BOD and suspended solids to 10 mg/l and 12 mg/l respectively as monthly averages. On February 26, 1979 the Agency indicated that it could not process a renewal application because the discharge may cause or contribute to downstream violations of applicable dissolved oxygen water quality standards. This conclusion was based on a computer model prepared by the Northeastern Illinois Planning Commission (NIPC) and submitted as part of NIPC's water quality management plan prepared pursuant to Section 208 of the Clean Water Act. This model was the subject of a prior Board variance which granted similar relief to over 250 dischargers (Village of Bloomingdale v. EPA, PCB 78-124, October 19, 1978, 31 PCB 125, November 2, 1978, and November 30, 1978). In Bloomingdale, the Board commented as follows on the use of this model:

"The Board finds that it need not determine whether or not the model's predictions are accurate. By its very existence the NIPC study provides evidence of possible present and future violations of the Board's dissolved oxygen water quality standard. While the model does not provide conclusive proof that any individual discharge will cause or contribute to violations, the Board sees no reason why the model's conclusions should be challenged in a series of permit denial appeals or obviated in a series of variances. Extensive litigation would constitute economic hardship on hundreds of dischargers and would impose an administrative burden on the Agency. hardship is rendered arbitrary or unreasonable by virtue of the fact that it may be needless. Pending

-2-

regulatory changes may remove the need for some of this litigation."

The Board hereby incorporates the record and its findings and conclusions in <u>Bloomingdale</u> in the record of this matter.

Petitioner has indicated that it can meet the 10 mg/l BOD and 12 mg/l suspended solids effluent limitations which were applied to the majority of dischargers in Bloomingdale.

Without a variance Petitioner's only alternative is termination of its discharge or construction of additional treatment facilities to eliminate all deoxygenating wastes. Petitioner contends that the hardship and expense associated with this latter alternative far outweighs any environmental improvement which would result.

The Board concludes that denial of this variance would constitutes arbitrary or unreasonable hardship on Petitioner. The reasoning in <u>Bloomingdale</u> must be employed in this matter to avoid inequitable results. Relief will also be granted from Rules 404(f), 902(i)(l)(iii), 910(a)(4) and 910(b) so that the Agency may issue a NPDES permit to Petitioner.

Petitioner and the Agency asked that the variance run for a five year term. In order to maintain consistency with the Order in <u>Bloomingdale</u>, the variance shall also terminate on October 19, 1983.

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

ORDER

- 1) Petitioner is hereby granted a variance from Rules 203(d), 402 (as it pertains to dissolved oxygen), 902(i)(l)(iii), 910(a)(4) and 910(b) of Chapter 3: Water Pollution, until October 19, 1983.
- 2) Petitioner is hereby granted a variance from Rule 404(f) of Chapter 3: Water Pollution until October 19, 1983 or until the Board takes final action in R77-12, Docket C, whichever occurs first.
- 3) During the term of this variance the discharge from Petitioner's wastewater treatment facility shall be limited to 10 mg/l BOD and 12 mg/l suspended solids as 30 day averages.
- 4) The Agency is hereby authorized to issue a NPDES permit to Petitioner in a manner consistent with the terms of this Order including terms and conditions consistent with best practicable treatment, operation and maintenance of Petitioner's facilities.

5) Within 45 days of the date of this Order, Petitioner shall execute a Certification of acceptance and agreement to be bound by all the terms and conditions of this variance. The Certification shall be forwarded to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706. This 45 day period shall be held in abeyance if this matter is appealed.

CERTIFICATION

I (We),	, having read
	der in PCB 79-89 hereby accept
that Order and agree to be bou conditions.	nd by all of its terms and
	SIGNED
	TITLE
	DATE
IT IS SO ORDERED.	
Dr. Satchell abstains.	
Control Board, hereby certify were adopted on the	lerk of the Illinois Pollution the above Opinion and Order day of
1979 by a vote of	·
	Christan S. Moffett
	Christan L. Moffett //tlerk Illinois Pollution Control Board