## ILLINOIS POLLUTION CONTROL BOARD October 18, 1979

CITY OF ELMHURST, ))
Petitioner, ))
v. ))
ENVIRONMENTAL PROTECTION AGENCY, ))

Respondent.

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

Petitioner requested a variance from the effluent standards for deoxygenating wastes in Rule 404(f) and ammonia nitrogen in Rule 402.1 and 203(f) of Chapter 3: Water Pollution. At the hearing Petitioner withdrew its request that it be removed from the list of communities on restricted status. (R.5)

PCB 79-113

Petitioner was one of the dischargers included in the Board's Order in <u>Village of Bloomingdale v. EPA</u>, PCB 78-124, 31 PCB 671, October 19, 1978. That case provided relief for over 250 dischargers from the dissolved oxygen requirements of Rules 203(d) and 402 of Chapter 3: Water Pollution and from Rule 404(f). The relief from 404(f) involved a rollback to the 10 mg/l BOD<sub>5</sub> and 12 mg/l suspended solids standards. No relief from the ammonia nitrogen standards was given in that case.

Petitioner operates a sewage treatment plant which was designed to treat an average dry weather flow of 6.0 million gallons per day (MGD) with excess capacity of 9 MGD for primary and secondary treatment and primary treatment of 25 MGD for excess flow. Flow from the plant averaged 9.35 MGD from November, 1977 to November, 1978. Effluent from the plant is discharged to Salt Creek with an average of 14.5 mg/1 BOD<sub>5</sub>, 14.6 mg/1 suspended solids and 16 mg/1 ammonia nitrogen. Petitioner has experienced surges from infiltration and inflow in its collection system which along with excess flows following heavy rainfalls have reduced treatment efficiency. As a result monthly average effluent concentrations as high as 20.9 mg/l  $BOD_{r}$  and 32.4 mg/l suspended solids have been recorded. While Petitioner does not provide separate facilities for removal of ammonia nitrogen, it has applied for a construction grant to remedy this problem along with excessive infiltration and inflow. The cost of all necessary improvements has been estimated at \$14,000,000 in 1976 dollars. Petitioner also intends to provide interim relief

measures in late 1980 at a cost of \$1,000,000 which should achieve consistent compliance with standards of 20 mg/l BOD<sub>5</sub> and 25 mg/l suspended solids.

Petitioner contends that the water quality in Salt Creek has suffered from a number of factors. These include 16 upstream sewage treatment plant discharges, surface runoff, and intermittent discharges from combined and separate sewer systems. Even though extensive improvements are expected from the Northeastern Illinois Planning Commission's Areawide Water Quality Management Plan; bottom conditions, seasonal low flows, and the physical limitations of Salt Creek will continue to limit recreational uses.

Petitioner contends its past good faith efforts to separate its storm and sanitary sewers and its compliance with the construction grants program should be viewed as adequate progress toward solving its problems. Petitioner feels it should not be required to move ahead with improvements at its own expense in light of its past and present achievements. Petitioner is asking that it be permitted to discharge at a level of 30 mg/l BOD<sub>5</sub> and 30 mg/l suspended solids (the Federal minimum) and 20 mg/l ammonia nitrogen until its improvements are completed.

In its Recommendation the Agency cites recent discharge monitoring reports (DMR's) to show that during March, 1979 Petitioner's effluent concentrations reached 22.5 mg/l BOD<sub>5</sub> and 45.9 mg/l suspended solids. The Agency estimates that funding for needed improvements is at least three years away. While the Agency admits that Petitioner should not be required to make all its improvements immediately, Petitioner's recent DMR's (March, 1979 excluded) show an immediate ability to comply with interim standards of 20 mg/l BOD<sub>5</sub> and 25 mg/l suspended solids. The Agency's estimates of Petitioner's present capabilities are limited to the discharge from its final clarifier prior to mixing with excess bypass flows. The Agency agrees that an interim standard of 20 mg/l ammonia nitrogen is appropriate.

At the hearing two citizens testified that Petitioner should remain on restricted status. As noted previously, this request for relief was dropped.

The Board concludes that denial of a variance in this instance would constitute arbitrary or unreasonable hardship. As long as Petitioner participates in the construction grant process in a timely fashion, it will be doing its part to improve sewage treatment. While the Board endorses Petitioner's efforts at interim improvements, it agrees with the Agency's contention that Petitioner's secondary effluent should be required to meet standards of 20 mg/l BOD<sub>5</sub>, 25 mg/l suspended solids and 20 mg/l ammonia nitrogen as monthly averages. This Opinion constitutes the Board's finding of fact and conclusions of law in this matter.

## ORDER

- Petitioner is hereby granted a variance from Rule 404(f) of Chapter 3: Water Pollution for five years from the date of this Order or until upgrading of Petitioner's treatment facilities is completed, whichever occurs first, subject to the following conditions:
  - a) Discharges of secondary effluent from the final clarifier prior to mixing with excess flow bypasses shall not exceed 20 mg/l BOD<sub>5</sub> and 25 mg/l suspended solids as monthly averages; and
  - b) Discharges of combined effluent from the excess flow clarifiers shall not exceed 30 mg/l BOD<sub>5</sub> and 30 mg/l suspended solids as monthly averages.
- 2. Petitioner is hereby granted a variance from Rules 402.1 and 203(f) as it pertains to ammonia nitrogen of Chapter 3: Water Pollution for five years from the date of this Order or until upgrading of Petitioner's treatment facilities is completed, whichever occurs first, subject to the condition that discharges not exceed 20 mg/l ammonia nitrogen as a monthly average.
- 3. Petitioner shall adhere to all requirements of its construction grant to maintain its priority listing so that construction of improvements may be achieved by the earliest possible date.
- 4. The Agency is hereby authorized to modify or reissue NPDES Permit No. IL0028746 in a manner consistent with the terms of this Order.
- 5. Within 45 days of the date of this Order, Petitioner shall execute a certification of acceptatnce and agreement to be bound to all terms and conditions of this variance. The certification shall be forwarded to the Illinois Environmental Protection Agency, Compliance Assurance Unit, 2200 Churchill Road, Springfield, Illinois 62706 and shall read as follows:

## CERTIFICATION

I (We), \_\_\_\_\_, having read and fully understanding the Order in PCB 79-113 hereby

35-521

accept that Order and agree to be bound by all of its terms and conditions.

SIGNED	
TITLE	
DATE	

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the \_\_\_\_\_\_ day of \_\_\_\_\_\_, 1979 by a vote of \_\_\_\_\_\_. \_\_\_\_\_\_. \_\_\_\_\_\_. Christan L. Moffett//Clerk Illinois Pollution Control Board