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STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL
BOARD**

**CITY OF OAK FOREST,
OAK FOREST ILLINOIS**

Petitioner,

v.

**ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY,**

Respondent.

PCB 16-33
(Variance-Water)



ORIGINAL

PETITION FOR VARIANCE

Now comes the City of Oak Forest and pursuant to Section 35(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/35(a), and Part 104 of Title 35 of the Illinois Administrative Code, 35 Ill. Admin. Code § 104.100 *et seq.*, hereby petitions the Illinois Pollution Control Board ("Board") for a variance authorizing discharges from its storm sewers and outfalls into the Cook County Area Waterways System pursuant to the terms and conditions outlined in this Petition for Variance ("Petition").

The City of Oak Forest ("Oak Forest") is located in Cook County. Authority for general supervision of stormwater management in Cook County was conveyed to the Metropolitan Water Reclamation District ("MWRD") by the Illinois Legislature in 2004 by passage of Public Act 93-1049. It is Oak Forest's understanding that MWRD has filed a petition for variance seeking similar relief to that requested by Oak Forest in this petition. However, since MWRD has questioned whether its petition for variance, if successful, would apply to the suburban communities it supervises, Oak Forest is filing the instant petition. For purposes of expediency,

all Exhibits referenced in this petition shall be the same as those filed with the MWRD petition for variance other than the NPDES permits and the affidavit of certifying official attached to this petition.

In Docket 2008-009, the Board has been engaged in an extensive rulemaking process regarding designated uses, effluent limitations and water quality standards for the CAWS. Subdocket D has involved the setting of water quality standards for the protection of aquatic life. The Board has now adopted final aquatic life water quality standards for the CAWS, effective July 1, 2015.(39 Ill. Reg. 9388, 9423, 9433 (July 10, 2015))Included in that rulemaking are new standards for chlorides.

During the rulemaking, it was noted that most reaches of the CAWS currently do not meet the new chlorides standards. Regulated parties pointed out that effluent limits based on the new standards may be difficult or impossible to meet, and the costs of installing technological controls at their facilities would be enormous. Therefore, it was requested that the Board delay application of the new standards so stakeholders could convene and develop options for addressing these concerns while making progress in reducing chloride levels in the CAWS. The Board granted this request, specifying that the new chlorides standards would not apply until July 1, 2018.

IEPA asked the MWRD, as a significant stakeholder on CAWS issues, to convene and lead a work group to address chloride issues during the 3-year time period provided by the Board. An initial stakeholder meeting was held on January 27, 2015, and the next meeting will be held on August 4, 2015.¹The District is committed to working closely with IEPA and the other stakeholders to move that process forward. The goals would be that before the end of the 3-year period provided by the Board, the stakeholders will have developed, and begun

¹ Documents regarding those meetings are included in Exhibit 1.

implementing, a set of best management practices (BMPs) for addressing chloride issues, and will have taken action to develop and propose, for adoption by the Board, appropriate mechanisms to address compliance issues, possibly including a water quality variance.

The MWRD and the Oak Forest appreciate the Board's willingness to provide that 3-year time period before compliance with the new chloride standards is required. However, some confusion has arisen regarding the legal character of that delay in the compliance requirement. As the Board is aware (and has noted recently in this rulemaking), applicable statutes provide that if a party wants to obtain a stay of the effectiveness of a Board rule, then that party must apply for a variance (or adjusted standard, which is not relevant here) within 20 days of the effective date of the rule. In the current situation, it is not entirely clear whether the "effective date" of the new chloride standards is July 1, 2015 or July 1, 2018. The new standards clearly do not apply until 2018. However, the full CAWS rule, as adopted in the Illinois Register, specifies that the effective date is July 1, 2015. And, the chloride provision does not clearly state otherwise. Therefore, for these purposes, we believe that the effective date is 2015, and that in order to obtain a stay, a variance application must be filed by July 21, 2015.

We understand that as the Board adopted the CAWS rule, the new chloride standards do not apply to the CAWS reaches, and may not be implemented in the MWRD's permits, until after July 1, 2018. Therefore, the MWRD does not need a variance to take effect until after that date, and it does not need a stay of the standards to take effect until after that date. And hopefully, by that date, the work group will have completed its efforts successfully, including by securing a variance or other relief mechanism to address compliance concerns. However, it is not guaranteed that the entire work group process, and the variance (or other relief) process will be completed by then, including US EPA approval of any variance. Therefore, there is a risk that

after the 3-year period has passed, the chloride standards will become effective, and compliance with those standards will be required, without any final mechanism in place addressing compliance concerns. If that happens, Oak Forest could be faced with substantial compliance and liability issues. It could be subject to penalties for not meeting standards that, based on currently available information, may be impossible to meet, or could require installation of extensive new controls, at potential costs in the millions of dollars, over a multi-year period. To avoid that result, Oak Forest is submitting this request for a variance within the timeframe provided for obtaining a stay of the chloride standards.

It is important to note that other regulated parties located on the CAWS will face similar risks as described here for the MWRD. Therefore, the Board should consider issuing a variance and stay of the chloride standards that applies to all dischargers into the CAWS, to ensure that the dischargers are not unfairly penalized if the chloride work group process has not been completed by the end of the 3-year compliance period. This relief would only be needed on an interim basis, since once the work group has completed its work, we would expect that a full suite of BMPs would have been developed, and implementation begun, and a permanent regulatory mechanism – whether a variance or some other device – would have been developed, applied for, and obtained, with all required approvals. At that point, the permanent regulatory structure would replace the temporary variance and stay. This process would ensure that while on the pathway toward ultimate resolution of the chloride issue, improvements in discharge levels would be made, while undue compliance risks and unnecessary costs would be avoided. If the Board determines that it cannot grant this relief to all dischargers to the CAWS, then it should, at a minimum, issue variances to Oak Forest, based on this petition, and to all other dischargers to the CAWS that submit appropriate variance petitions.

I. REQUIREMENTS FROM WHICH A VARIANCE IS SOUGHT

- a) A statement describing the regulation, requirement, or order of the Board from which a variance is sought. If variance from a regulation is sought, the statement must include the Illinois Administrative Code citation to the regulation as well as the effective date of that regulation. If variance from a requirement or order of the Board is sought, the statement must include the citation to that requirement or order of the Board promulgating that requirement, including docket number;

As noted above, the Board has adopted new aquatic life standards for the CAWS, including for chlorides. These standards were adopted by an Opinion and Order of the Board in Docket R2008-09, Subdocket D, dated June 18, 2015. The final rules appeared in the Illinois Register on July 10, 2015 (30 Ill. Reg. 9388, 9423, 9433). The chlorides standards, which are in 35 IAC 302.407(g)(2) and (g)(3), are not currently met on a consistent basis and cannot be met on a consistent basis during the term of the variance that is being requested here by Oak Forest.

The discharges to the Calumet Watershed. Oak Forest is operating with an NPDES permit, which requires Oak Forest to not cause or contribute to violations of water quality standards, including those established in the R2008-09 rulemaking.

Therefore, it is necessary for City of Oak Forest to be issued a five-year variance for its NPDES Permit in the form suggested in this Petition to avoid the imposition of an arbitrary or unreasonable hardship on Oak Forest.

II. ACTIVITY OF THE CITY OF OAK FOREST

- b) A complete and concise description of the nature of petitioner's activity that is the subject of the proposed variance, including:
 - A. The location of, and area affected by, the petitioner's activity.

Oak Forest operates and maintains a municipal separate storm sewer system within its corporate limits pursuant to NPDES Permit No. ILR400408. In addition, the permit also covers discharges from storm sewer outfalls operated by Oak Forest described in more detail below.

The area affected by Oak Forest's activities is the Calumet Watershed, CAWS, including each of the receiving waters identified below.

- B. The location of points of discharge, and, as applicable, the identification of the receiving waterway or land, or, if known, the location of the nearest air monitoring station maintained by the Agency.

The O'Brien plant's point of discharge is the 001 Water Reclamation Plant Outfall and the receiving water is the North Shore Channel.

Discharge Number	Location	Receiving Water
101	Sheridan Road	North Shore Channel
102	Green Bay Road	North Shore Channel
103	Emerson Street	North Shore Channel
104	Lake Street	North Shore Channel
105	Howard Street	North Shore Channel
106	Morse Avenue	North Shore Channel
107	North Branch Pumping Station	North Branch of Chicago River
109	Rand Road	Des Plaines River
110	Niles Center Outlet Sewer – Oakton Street	North Shore Channel

The Stickney plant's point of discharge is the 001 Water Reclamation Plant Main Outfall and the receiving water is the Chicago Sanitary and Ship Canal. The nearest air monitoring station is unknown and not relevant for the requested variance. In addition, the plant's Permit authorizes the following Combined Sewer discharges:²

²The Permit also authorizes discharges, under specified circumstances, from emergency high level bypass Outfalls 002, 003 and 004.

Discharge Number	Location	Receiving Water
131	Devon Avenue	Des Plaines River
132	Northwest Tollway	Des Plaines River
133	Foster Avenue	Des Plaines River
134	North Avenue	Des Plaines River
135	Chicago Avenue	Des Plaines River
136	Roosevelt Road	Des Plaines River
142	38th and Racine Avenue	S. Fork of S. Branch of Chicago River
143	Laramie Avenue	Chicago San. and Ship Canal
144	Lombard Avenue	Chicago San. and Ship Canal
145	East Avenue	Chicago San. and Ship Canal
146	13A Pump Station	Chicago San. and Ship Canal
147	67th Street	Chicago San. and Ship Canal
148	75th Street	Chicago San. and Ship Canal
149	Tri-State Tollway	Chicago San. and Ship Canal
150	Westchester Pump Station	Addison Creek

The Calumet plant's point of discharge is the 001 Water Reclamation Plant Outfall and the receiving water is the Little Calumet River. The nearest air monitoring station is unknown

and not relevant for the requested variance. In addition, the plant's Permit authorizes the following Combined Sewer discharges:³

Discharge Number	Location	Receiving Water
004	WRP TARP Bypass (Bulkheaded)	Little Calumet River
006	Calumet 18H Inverted Syphon	Calumet Sag Channel
007	Calumet 20B Interceptor	Calumet Sag Channel
010	Glenwood Pump Station	Deer Creek
151	94th Place	Calumet River
152	122nd Street Pump Station	Calumet River
153	Edbrook Avenue	Little Calumet River
154	Throop Street	Calumet Sag Channel
156	Francisco Avenue	Calumet Sag Channel
157	Central Park	Calumet Sag Channel
158	Pulaski Road	Calumet Sag Channel
160	Ridgeland Avenue	Calumet Sag Channel
163	Sacramento	Calumet Sag Channel

The Lemont plant's points of discharge are the 001 Water Reclamation Plant Outfall and the 002 Wet Weather Treatment Outfall. The receiving water is the Chicago Sanitary and Ship Canal. The nearest air monitoring station is unknown and not relevant for the requested variance.

³The Permit also authorizes discharges, under specified circumstances, from emergency high level bypass Outfalls 002 and 003.

In addition, the plant's Permit authorizes Combined Sewer discharges from 002, which discharges to the Chicago Sanitary and Ship Canal.

- C. An identification, including docket number, of any prior variance issued to the petitioner and, if known, the petitioner's predecessors, concerning similar relief.

There have been no variances issued to the MWRD concerning similar relief.

- D. An identification, including number, of the environmental permits held by petitioner for the activity which may be affected by grant of variance.

The following permits held by MWRD would be affected by the grant of the requested variances:

O'Brien:

NPDES Permit No. IL0028088⁴
Issue Date: January 22, 2002
Effective Date: March 1, 2002
Expiration Date: February 28, 2007

Stickney:

NPDES Permit No. IL0028053
Issue Date: December 23, 2013
Effective Date: January 1, 2014
Expiration Date: December 31, 2018

Calumet:

NPDES Permit No. IL0028061⁵
Issue Date: January 22, 2002
Effective Date: March 1, 2002
Expiration Date: February 28, 2007

Lemont:

NPDES Permit No. IL0028070
Issue Date: January 25, 2008
Effective date: February 1, 2008
Modification Date: March 21, 2008

⁴The subsequently issued permit was remanded by the Pollution Control Board on December 18, 2014 and has not yet been reissued.

⁵The subsequently issued permit was remanded by the Pollution Control Board on December 18, 2014 and has not yet been reissued.

Expiration Date: January 31, 2013

- E. The number of persons employed by the petitioner's facility at issue and the age of that facility.

The MWRD has a total of approximately 1862 employees.

O'Brien began operations in 1928, and has 189 employees.

Stickney began operations on the west side portion of the plant in 1930. The southwest portion of the plant was placed into service in 1939. The plant has 637 employees.

Calumet began operations in 1922, and has 259 employees.

Lemont begin operations in 1961, and has 3 employees.

- F. The nature and amount of the materials used in the process or activity for which the variance is sought and a full description of the particular process or activity in which the materials are used.

The Plants are wastewater treatment facilities for the treatment of municipal sewage. The associated CSO outfalls provide relief from local flooding during heavy wet weather events due to finite pumping and hydraulic capacity of the collection system and treatment plants. The Permits (attached hereto as Exhibits 2, 3, 4 and 5) provide details concerning each Plant's processes and authorized discharges as well as the discharge limits that will be affected by the requested variances.

- G. A description of the relevant pollution control equipment already in use.

O'Brien: Treatment consists of screening, grit removal, sedimentation, activated sludge and final settling. Sludge generated during the wastewater treatment processes is pumped to Stickney for further treatment. O'Brien treats domestic wastewater for part of the City of Chicago, Evanston, Skokie, Glenview, and other surrounding municipalities.

Stickney: Treatment consists of both primary and secondary treatment. Primary treatment is divided between two sets of processes, with flow entering on the “West Side” and the “Southwest Side.” The West Side treats through screenings, skimming tanks, and Imhoff tanks, with grit flowing through channels and sludge going directly to digesters. The Southwest Side treats via screenings, aerated grit tanks, and preliminary gravity settling tanks. Grit is dewatered and preliminary sludge is screened and concentrated before digestion. All flow then goes through a common secondary system of four-pass aeration tanks and final settling clarifiers. Sludge is anaerobically digested and then dewatered and aged for land application and other beneficial reuse. Stickney treats domestic and industrial wastewater for Berwyn, a portion of Chicago, Cicero, Des Plaines, Maywood, Melrose Park, Oak Park, Park Ridge and 38 other cities.

Calumet: Treatment consists of screening, grit removal, primary settling, activated sludge, final settling, and sludge handling facilities. Calumet treats domestic wastewater for part of the City of Chicago, Calumet City, Oak Lawn, Tinley Park and other surrounding municipalities.

Lemont: Treatment consists of screening, grit removal, primary settling, activated sludge, and final settling. Sludge generated during the wastewater treatment process is concentrated and trucked to either the Stickney or Calumet treatment plants. Lemont treats domestic wastewater for the Village of Lemont.

H. The nature and amount of emissions, discharges or releases of the constituent in question currently generated by the petitioner’s activity.

The discharges for each Plant and CSO Outfall are described in the respective permit applications and permits which are attached hereto as Exhibits 2-9. Exhibit 10 shows the level of chlorides in the discharges from the O’Brien, Calumet and Stickney Plants from December 2014

through April 2015.(Chlorides data has not been collected for the Lemont Plant or for the CSO Outfalls.)Exhibit 11 shows the number and percent of times, during the period from 2004 through 2013, that chlorides discharge levels at the O'Brien and Stickney plants exceeded the chlorides standards that have now been adopted.

III. COMPLIANCE WITH THE REGULATION CANNOT BE ACHIEVED BY THE COMPLIANCE DATE

Data describing the nature and extent of the present or anticipated failure to meet the regulation, requirement, or order of the Board from which variance is sought and facts that support petitioner's argument that compliance with the regulation, requirement, or order of the Board was not or cannot be achieved by any required compliance date;

Results from sampling for chloride levels in the CAWS during the period 2010 through 2014 indicate that many of the reaches do not consistently meet the new winter standards.This will result in stringent limits being imposed on Oak Forest storm sewers that discharge to those waters..

There are, in essence, only two ways that chloride levels in Oak Forest's discharges can be reduced: applying end-of-pipe controls, or reducing chloride inputs into the sewer system. End-of-pipe controls would likely involve installation of reverse osmosis (RO) units at each of the outfall discharges. There are several problems with use of RO in this situation. First, there are numerous discharge outfalls within Oak Forest, often discharging an enormous amount of flow. We are aware of no situation where RO has been applied to a storm water flow with many discharges of varying sizes. The systems would require a large amount of land – likely more than what is available in a fully built out community such as Oak Forest. Moreover, even if an RO system is feasible, the costs would be tremendous. Data on other RO installations show costs

ranging between \$4 million and \$18 million per 1 million gallons a day (mgd).⁶⁷ Adding to that burden would be the high energy requirements for RO facilities, which would impose large operational costs – and would significantly increase Oak Forest’s carbon footprint, creating new environmental problems rather than reducing them. Beyond all of those issues, there is timing: design, installation and commencing operation of such large RO systems would take many years – well beyond the 3 years currently provided in the rules. For all of those reasons, applying RO controls to Oak Forest’s discharges to meet the new chloride standards is not a viable option now, now will it be in three years when the standards become applicable.

The other compliance option for Oak Forest (and for other dischargers as well) is to reduce chloride levels entering Oak Forest's sewer system. This would be done primarily through implementation of practices that reduce use of road salt during the winter, including, where appropriate, substitution of other materials to address ice and snow on the roads. A number of communities in the Northern U.S and Canada have been researching and applying these types of practices to address chloride water quality concerns.⁸ The effectiveness of these practices in

⁶ Examples are as follows: (1) a drinking water project for Western Springs, IL, to treat 1.7 mgd, cost \$6, 627,820 (<http://www.wsprings.com/documentcenter/view/230> ; <http://www.wsprings.com/index.aspx?nid=151>); (2) a plant for Tampa Bay, FL, to treat 24 mgd, cost \$110 million (http://www.harnrosystems.com/papers/CapitalandOMCostforRO_Presentation.pdf); (3) a plant for San Diego County, to treat 54 mgd, cost \$1 billion (<http://www.ide-tech.com/blog/case-study/carlsbad-germany-project/> ; <http://www.sdcwa.org/carlsbad-desal>). (These documents are attached as Exhibits 13-15.)

⁷ These costs do not include the costs for disposal of the brine that results from RO, which can be extremely high. Water ReUse Association Desalination Committee, *Seawater Desalination Costs White Paper* (September 2011, Revised January 2012) (attached as Exhibit 16)

⁸ See, for example, Kilgore, Gharabaghi, Perera, *Ecological benefit of the road salt code of practice* (2013); Transportation Association of Canada, *Syntheses of Best Practices – Road Salt Management, Chapter 11 – Successes in Road Salt Management: Case Studies* (April 2013); DuPage River Salt Creek Workgroup/CDM, *Chloride Usage Education and Reduction Program Study: Final Report* (Aug. 16, 2007); New Hampshire Department of Environmental Services, *Chloride Reduction Implementation Plan for Dinsmore Brook Watershed, Windham, NH* (attached as Exhibits 17-20).

reducing chloride loadings to waterways, and in reducing ambient chloride levels in those waterways, has varied significantly across the range of communities and programs.⁹ There are many factors that will affect the success of these programs, and in order to be effective, a program needs to be developed on a watershed-specific basis, taking into account the unique factors that are present in that situation – including consideration of any public safety issues that could result from reducing use of road salt for deicing operations. Even with such a tailored program, there is often a significant lag time between implementation of the program and seeing a significant improvement in water quality,¹⁰ so it is critical to include, as a component of the program, an adaptive management element, so that as results are seen (or not seen), the program can be adjusted to improve the long-term situation.

The right mix of chlorides BMPs for the CAWS can, obviously, not be determined right now, immediately after the new standards have been adopted. It will take significant time and effort, involving regulatory agencies and other stakeholders, to review relevant data, assess various options, and develop a consensus concerning proper measures to be applied – and an implementation schedule. That work will be the primary function of the Work Group that the MWRD, at the request of IEPA, is currently convening, with its next meeting scheduled for a few weeks from now – August 4, 2015. The materials provided to the participants in the first Work Group meeting make it clear that development of an effective suite of BMPs for the CAWS is the main goal of the Work Group. That BMP program will then be the foundation for a legally and scientifically sound regulatory compliance structure for chlorides in the CAWS. Whether that turns out to be some kind of “group” or “waterbody” variance, or individual

⁹ See Stone, Emelko, Marsalek, Price, Rudolph, Saini, Tighe, *Assessing the Efficacy of Current Road Salt Management Programs* (July 26, 2010), for University of Waterloo and National Water Research Institute (attached as Exhibit 21).

¹⁰ Meals, Dressing, Davenport, *Lag Time in Water Quality Response to Best Management Practices: A Review*, J. Environ. Qual. 39:85-96 (2010) (attached as Exhibit 22).

variances for specific dischargers that are all based on a common program, or some other type of mechanism, will be determined by the group, in consultation with the regulatory agencies. The goal will be to get all of this work – the development of the BMP program, as well as the creation and regulatory approval of the compliance structure -complete before July 1, 2018, when the new chlorides standards will become legally applicable. That way, there will be a seamless transition between the 3-year “work period” and the later “compliance period.” Measures to reduce chloride loadings will be developed, then implemented, then assessed for effectiveness so that necessary adjustments can be made.

IV. EFFORTS NECESSARY TO ACHIEVE IMMEDIATE COMPLIANCE

- d) A description of the efforts that would be necessary for the petitioner to achieve immediate compliance with the regulation, requirement, or Board order at issue. All possible compliance alternatives, with the corresponding costs for each alternative, must be set forth and discussed. The discussion of compliance alternatives must include the availability of alternate methods of compliance, the extent that the methods were studied, and the comparative factors leading to the selection of the control program proposed for compliance. The discussion of the costs of immediate compliance may include the overall capital costs and the annualized capital and operating costs;

The efforts needed for Oak Forest to achieve immediate compliance with the new chloride standards (and the efforts needed to achieve compliance in 3 years) are discussed above, along with the related compliance costs.

V. ARBITRARY OR UNREASONABLE HARDSHIP

- e) Facts that set forth the reasons the petitioner believes that immediate compliance with the regulation, requirement, or order of the Board would impose an arbitrary or unreasonable hardship;

As explained above, immediate compliance with the new chlorides standards is simply not possible. Currently, the new standards are not being attained on a consistent basis in the

CAWS or in the watersheds. Neither end-of-pipe controls (such as RO) nor an effective BMP program could be implemented immediately (even if they did not present the cost and other practical challenges discussed above). Imposition of RO, on any time schedule, would be so costly as to impose an arbitrary and unreasonable hardship. An effective BMP program, developed over the next 3 years by the Work Group, may be able to bring about compliance with the new chlorides standards (although the extent to which it would result in compliance is still to be determined), but there is simply no way to make that determination until the full BMP program is developed. Therefore, at this time, there is no method available to bring about compliance with the new chlorides standards that would not create an arbitrary and unreasonable hardship.

VI. COMPLIANCE PLAN AND SUGGESTED CONDITIONS

- f) A detailed description of the compliance plan, including:
 - A. A discussion of the proposed equipment or proposed method of control to be undertaken to achieve full compliance with the regulation, requirement, or order of the Board.

As stated above, there is no equipment or control method that Oak Forest can utilize to achieve full compliance with the new chlorides standards. Over the next 3 years (and longer if necessary), Oak Forest will continue to work with the MWRD, IEPA and other stakeholders, as a participant in the CAWS chloride Work Group. During this process, the MWRD will facilitate the Work Group's efforts to develop an effective BMP program to reduce chloride loadings to the CAWS, as well as to develop, and secure regulatory adoption and approval of, a compliance mechanism to address chloride issues as presented in NPDES permits for dischargers to the CAWS. During this time period, the MWRD would provide periodic reports to the Board as to

the status of the Work Group's discussions. At the conclusion of the Work Group's efforts, the MWRD (likely with Oak Forest, and other stakeholders) would provide a final report to the Board, including recommendations and proposed changes to regulations necessary to implement the recommendations.

- B. A time schedule for the implementation of all phases of the control program from initiation of design to program completion.

As stated above, the MWRD would convene and lead the CAWS chlorides Work Group, for the next 3 years (and longer if necessary), in its efforts to address chlorides issues in the CAWS. Periodic status reports would be filed with the Board, and a final report would be filed at the conclusion of the Work Group's efforts.

- C. The estimated costs involved for each phase and the total cost to achieve compliance.

The costs to the MWRD of convening and leading the Work Group efforts have not been estimated. The cost of an effective BMP program for the CAWS area has not yet been estimated; that will be one of the issues that the Work Group will address over the next 3 years.

VII. ENVIRONMENTAL IMPACT

- g) A description of the environmental impact of the petitioner's activity including:
- 1) The nature and amount of discharges, or releases of the constituent in question if the requested variance is granted, compared to that which would result if immediate compliance is required;

Immediate compliance with the new chloride standards is not possible. In contrast, we do not believe that current discharges of chlorides from Oak Forest's activities causes any significant adverse environmental impacts, as compared to the situation that would result if Oak Forest were discharging at the levels provided in the new standards.

- 2) The qualitative and quantitative description of the impact of petitioner's activity on human health and the environment if the requested variance is granted, compared to the impact of petitioner's activity if immediate compliance is required. Cross-media impacts, if any, must be discussed; and

See response to item 1 above.

- 3) A statement of the measures to be undertaken during the period of the variance to minimize the impact of the discharge of contaminants on human, plant, and animal life in the affected area, including the numerical interim discharge limitations that can be achieved during the period of the variance;

The interim measures that would be taken during the period of the variance to address chloride issues are described in Section VI above.

- h) Citation to supporting documents or legal authorities whenever they are used as a basis for the petition. Relevant portions of the documents and legal authorities other than Board decisions, reported state and federal court decisions, or state and federal regulations and statutes must be appended to the petition;

See exhibits attached the MWRD petition for variance.

If the requested variance involves an existing permit or a pending permit application, a copy of the material portion of the permit or permit application must be appended to the petition;

See exhibits attached to the MWRD petition for variance and NPDES permit(s) attached to this petition as Exhibit 1.

VIII. SUGGESTED CONDITIONS OF THE VARIANCE

Any conditions petitioner suggests for the requested variance;

Over the next 3 years (and longer if necessary), Oak Forest will continue to work with IEPA and other stakeholders, of the CAWS chloride Work Group. During this process, the MWRD will facilitate the Work Group's efforts to develop an effective BMP program to reduce chloride loadings to the CAWS, as well as to develop, and secure regulatory adoption and

approval of, a compliance mechanism to address chloride issues as presented in NPDES permits for dischargers to the CAWS. During this time period, the MWRD will provide periodic reports to the Board as to the status of the Work Group's discussions. At the conclusion of the Work Group's efforts, the MWRD (with Oak Forest, and other stakeholders if possible) will provide a final report to the Board, including recommendations and any proposed changes to regulations that are necessary in order to implement the recommendations.

IX. BEGINNING AND END DATE OF THE VARIANCE

- k) A proposed beginning and ending date for the variance. If the petitioner requests that the term of the variance begin on any date other than the date on which the Board takes final action on the petition, a detailed explanation and justification for the alternative beginning date;

The proposed beginning date for the variance would be the date that the NPDES Permit for Oak Forest is modified to include the variance. The term for the variance would be for a maximum of five years, ending no later than the effective date of any regulatory changes that are adopted by the Board to address chloride issues in the CAWS, after submittal of the final report of the CAWS chlorides Work Group, but in any event no later than the expiration date of the applicable Permit.

X. CONSISTENCY WITH FEDERAL LAW

A discussion of consistency with federal law, including an analysis of applicable federal law and facts that may be necessary to show compliance with federal law as set forth in Section 104.208 of this Part;

Under Title IX of the Act (415 ILCS 5/35-38), the Board is responsible for granting variances when a petitioner demonstrates that immediate compliance with the Board regulation(s) would impose an "arbitrary or unreasonable hardship" on the petitioner.

415 ILCS 5/35(a).The Board may grant a variance, however, only to the extent consistent with applicable federal law.*Id.*

Section 104.28(b) of the Board rules states the following with regard to consistency with federal law for all petitions for variances from the Board's water pollution regulations:

(b)All petitions for variances from Title III of the Act, from 35 Ill. Adm. Code Subtitle C, Ch. I "Water Pollution", or from water pollution related requirements of any other Title of the Act or Chapter of the Board's regulations, must indicate whether the Board may grant the relief consistent with the Clean Water Act (CWA) (33 USC 1251 et seq.), USEPA effluent guidelines and standards, any other federal regulations, or any area-wide waste treatment management plan approved by the Administrator of USEPA pursuant to Section 208 of the CWA (33 USC 1288).

The requested variances in this matter will be consistent with federal law. More specifically, the variance must meet one or more of the conditions in 40. C.F.R. § 131.10(g) which provides:

(g) States may remove a designated use which is not an existing use, as defined in Sec. 131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible because:

- (1) Naturally occurring pollutant concentrations prevent the attainment of the use; or
- (2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or
- (3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or
- (4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; or

- (5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or
- (6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

Under the circumstances here, there are natural conditions, man-caused conditions, hydrologic modifications, and physical conditions as to the CAWS that will prevent attainment of the use during the time period covered by this variance. Therefore, the variance would be justified pursuant to 131.10(g)(2), (g)(3), (g)(4) and (g)(5).

XI. AFFIDAVITS IN SUPPORT

An affidavit verifying any facts submitted in the petition

An affidavit from Richard Rinchich, Director of Public Works for the City of Oak Forest, is attached as Exhibit 2 to this petition.

XII. WAIVER OF REQUEST FOR HEARING

- m) A statement requesting or denying that a hearing should be held in this matter.

Since the MWRD has already requested a hearing and its petition raises the same issues as those presented by the City of Oak Forest in this petition, Oak Forest does not seek a hearing in this matter,

Respectfully submitted,

CITY OF OAK FOREST

By: RO Rinchich

July 20, 2015

Exhibit 1 – NPDES Permit(s)



Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Springfield, IL. 62794-9276

ACCT.# 01-04-5424

R.D. Rindich

Account
Invoice

CITY OF OAK FOREST
15440 S CENTRAL AVE
OAK FOREST, IL. 60452

RECEIVED
JUL 01 2014

Account Information

Account Number ILR400408
IEPA Program Annual NPDES Fees
Service Period July 1, 2014 to June 30, 2015
Billing Date 6/23/2014
Due Date 8/7/2014

Current Charges

Stormwater (MS4)	\$1,000.00
TOTAL CURRENT CHARGES	\$1,000.00

Billing Summary

Stormwater (MS4)	\$1,000.00
TOTAL CHARGES	\$1,000.00

Other Information/Messages

Questions. Please direct any technical/permit questions to the Permit Section at (217) 782-0610. Questions about the amount of your fee should be e-mailed to: EPA.NPDESfees@Illinois.gov See also the Frequently Asked Questions area at <http://www.epa.state.il.us/fees/npdes.html>.

Permit Termination. If you no longer need your permit because the activity under the permit has been discontinued, you must send the Agency a written request for permit termination at the address above. The fee is due and payable if the termination request is not received by the Agency on or before the due date indicated above. All fees and interest amounts due from prior years are due and payable.

Reconsideration. You may request reconsideration of the amount within 45 days after issuance of this notice. Failure to request reconsideration within this period shall constitute waiver of all rights to seek reconsideration of the amount due and will result in waiver of your right to appeal pursuant to 35 Ill. Adm. Code 325.530. All requests for reconsideration must be in writing and must include all pertinent facts and arguments in support of the request. You must pay at least the amount of the fee you believe you owe at the time of the request for reconsideration. Any unpaid remainder will be subject to interest and penalties if the request for reconsideration is denied. Requests for reconsideration must be sent to the Agency at the address above c/o "Billing Coordinator". See 35 Ill. Adm. Code 325.510.

A Late Daily Interest Penalty will continue to accrue until past due amounts are PAID IN FULL

Cut Here

Payment

Remittance Stub

Account Information

Account Number ILR400408
IEPA Program Annual NPDES Fees
Service Period July 1, 2014 to June 30, 2015
Billing Date 6/23/2014

Remit To:

Illinois EPA (NPDES)
Fiscal Services #2
P.O. Box 19276
Springfield IL 62794

Return Bottom Portion with Check Payable to Illinois EPA

Amount Due By

8/7/2014 \$1,000.00

Amount Enclosed

Fund-0731 Income Type-NPDES1/NPDINT

Federal Employer Identification Number (FEIN)
36-6007749

Please provide if blank

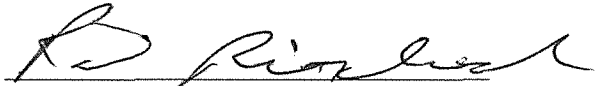
Business Email Address

Please provide if blank



Exhibit 2 - Affidavit

I Richard Rinchich, being duly sworn under oath, do hereby swear or affirm that the facts stated in the attached petition for variance are true to the best of my information and belief.



Richard Rinchich
Director of Public Works
City of Oak Forest

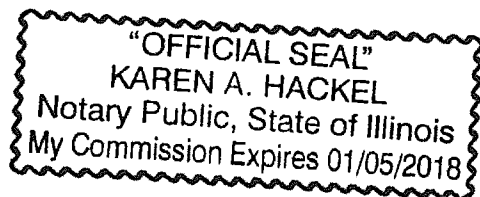
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Karen A. Hackel, a notary public for the State of Illinois, do hereby certify that Richard Rinchich, who is personally known to me, appeared before me on July 20, 2015 and signed the attached petition for variance.



Notary Public

My commission expires: 01/05/2018



TRANSMITTAL



City of Oak Forest

15440 S Central Avenue
Oak Forest, Illinois 60452
Phone: 708.535.4090
Fax: 708.687.2028

City Website: www.oak-forest.org

TO: Pollution Control Board Date: 7/21/15 Proj. No. _____
100 West Randolph Street Spec No. _____
James R. Thompson
Center, Suite 11-500
Chicago, Illinois 60601-3218 Attn: Clerk
Re: Petition for Variance Submittal

RECEIVED
CLERK'S OFFICE
JUL 22 2015

STATE OF ILLINOIS
Pollution Control Board

WE ARE SENDING YOU:

☒ Attached ☐ Under separate cover via: U.S. Mail • Federal Express • UPS • Courier • Drop-Off

THE FOLLOWING ITEM(S) : ☐ Documents ☐ Drawings ☐ Other: (See Description)

COPIES	DATE	DESCRIPTION
1	7/20/15	Petition for Variance - with Original signatures
3	7/20/15	Petition for Variance - copies

THESE ARE TRANSMITTED as checked:

☐ For Approval ☒ For Your Use ☐ As Requested ☐ For Review and Comment ☐ Other:

REMARKS:

Please find the attached Petition for Variance with original signature and three(3) copies. The petition mirrors the variance petition submitted by the Metropolitan Water Reclamation District and seeks relief with respect to CAWS, effective July 1, 2015. Specifically the portion of the rulemaking establishing new standards for chlorides.

Our goal, working with other regional stakeholders, is that before the end of the 3-year period provided by the Board, the stakeholders will have developed, and begun implementing, a set of best management practices (BMPs) for addressing chloride issues, and will have taken action to develop and propose, for adoption by the Board, appropriate mechanisms to address compliance issues, possibly including a water quality variance.

COPY TO: IEPA

SIGNED:

RECEIVED

U.S. DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D.C. 20530

If enclosures are not as noted, please notify us at once.

Filepath: C:\Users\rdr\Documents\PCB CAWS Transmittal.docx