

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1981

DOW CHEMICAL U.S.A.,)
)
) Petitioner,)
)
) v.) PCB 81-124
)
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY,)
)
) Respondent.)

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

On August 6, 1981 Dow Chemical U.S.A. filed a petition for variance which was amended on October 1, 1981 and again on October 7, 1981. The petition presently before the Board requests relief from Rules 203(d) and 402 of Chapter 3: Water Pollution, as they relate to dissolved oxygen, for a period of five years. The Illinois Environmental Protection Agency (Agency) filed a recommendation on November 5, 1981, recommending that the variance be granted until October 19, 1983, subject to certain conditions.

The hearing was quite short (30 page transcript), and there was no disagreement as to the material facts. The objector, Michael Biggers, appeared and testified briefly, but did not contradict any of the testimony and was, apparently, only seeking information.

Dow plans to build a sanitary sewage treatment plant located at the Marine Terminal Facility in the southwest corner of its Joliet plant site. The proposed sewage treatment plant will consist of two lift pumps, an aerator-settler, a sand filter, and a chlorinator. Dow alleges that this facility will serve approximately 50 employees and 70 truck drivers on a 24-hour per day, 7-day per week basis. This treatment facility will be designed to treat 4,000 gallons per day of sanitary sewage before being discharged to a drainage ditch tributary to the Des Plaines River.

Pursuant to Section 208 of the Federal Water Pollution Control Act, NIPC (Northeastern Illinois Planning Commission) developed an areawide wastewater treatment management plan for the northeastern portion of Illinois, which includes Cook, DuPage, Kane, McHenry, Will and Lake Counties. The study indicates that the dissolved oxygen water quality standard of Chapter 3 is being violated at numerous points throughout the

northeastern Illinois area. The study, along with other data, shows that in essence all wastewater discharges within the area that contain deoxygenating waste are and will continue to be probable contributors to dissolved depressions below the present standard at some point or points downstream of the discharge.

On October 19, 1978, the Board granted a variance until October 19, 1983 for relief from Rules 203(d) and 402 as they apply to dissolved oxygen, Rules 962(a) and 902(i)(1) as they relate to conformance with the Board's dissolved oxygen water quality standard and Rule 404(f) of Chapter 3. This variance was granted for approximately 280 individual parties under variance proceeding Bloomigdale v. EPA, PCB 78-124. The Village of Bloomigdale and the joined parties are all existing dischargers of deoxygenating wastes within the NIPC six county area. If Petitioner's facility had been in operation at the time of the Bloomigdale variance, the Agency alleges that it would have recommended that the same relief be granted.

Dow alleges, and it is not rebutted, that there are no sanitary sewage treatment systems that they could economically tie into and that the soil could not support a septic system (R. 12-14). The flows from the plant are 3.6×10^{-8} % of the seven-day-ten-year-low flow of the Des Plaines River (R. 17). The plant effluent should meet all effluent standards.

Given these facts, the Board finds that there would be a minimal adverse environmental impact and that to deny variance would constitute an arbitrary and unreasonable hardship.

The only question remaining, then, is the length of variance. Dow argues that to grant variance only until October 19, 1983, as the Agency recommends, would be inappropriate in that discharge will not even begin until early 1982 and will not be fully loaded until early 1983 (R. 12), and that it would cause further expense to have to petition for an extension of variance such a short time after full operations. However, the Board finds that the administrative convenience in keeping all Bloomigdale-type variance on the same schedule outweighs Dow's expense which may well be lessened by being grouped with these other petitioners. Therefore, the Board will follow the Agency's recommendation.

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

ORDER

Dow Chemical U.S.A., is hereby granted a variance from Rules 203(d) and 402 as they relate to dissolved oxygen until October 19 1983, subject to the following conditions:

1. Dow shall obtain the necessary construction and operating permits from the Agency;

2. Dow shall cooperate to the best of its ability in the development and implementation of the NIPC wastewater treatment management plan;
3. Dow shall operate the proposed sewage treatment plant under the best practicable operation and maintenance practices; and
4. Within 45 days of the date of this Order, Dow 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

_____ hereby accepts and agrees to be bound by all terms and conditions of the order of the Pollution Control Board in PCB # 81-124, dated _____.

Petitioner


By _____, authorized agent

Title

Date _____

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 17th day of December, 1981 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board