

ILLINOIS POLLUTION CONTROL BOARD
August 7, 1981

MIDWEST BAPTIST CONFERENCE,)
)
) Petitioner,)
)
) v.) PCB 81-55
)
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY,)
)
) Respondent.)

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

On April 15, 1981 Midwest Baptist Conference (Midwest) filed a petition for variance from Rules 203(d), 402, 404(f) and 902(i)(1) of Chapter 3: Water Pollution. In response to the Board's April 16, 1981 Order requesting more information, Midwest filed an amended petition curing the noted defects on April 29, 1981. A hearing was scheduled on this matter upon the May 18, 1981 filing of Long Lake Improvement and Sanitation Association of an objection to the variance. However, that objection was later withdrawn, and no hearing was held. While the Board is, in general, reluctant to cancel hearings after notice has appeared in the Environmental Register, in this case it appears that everyone's due process rights have been protected.* On June 5, 1981 the Illinois Environmental Protection Agency (Agency) filed a recommendation that the variance be granted in part, subject to conditions.

Midwest operates a wastewater treatment plant (WTP) which serves a religious and recreational summer camp, Camp Hickory, located in Lake County. The WTP's maximum daily flow of 14,000 gallons is discharged into a backwater-slough of Squaw Creek and eventually empties into the Lake County Chain of Lakes and thereafter to the Fox River. Treatment includes an Imhoff tank, a chlorine contact chamber, and intermittent sand filters. Current discharges range from 4-6 mg/l BOD₅.

* Hearing had been set on July 23, 1981, but was cancelled the day before based upon the representation by the objector that he would withdraw his objection. Statements from the objector, from Midwest's attorney, and from the secretary near the hearing room, who likely would have been questioned by anyone desiring to attend the hearing, indicate that the only person who came to the hearing room on the date of hearing was the objector who has, in fact, now withdrawn his objection.

It is the Agency's position that had Midwest not been overlooked by the Agency at the time of the variance proceeding Bloomington v. EPA (PCB 78-124, 32 PCB 23, Nov. 2, 1978) that it would have been included among the over 280 joined petitioners. That case held that demonstrations of non-contribution to violations of dissolved oxygen (DO) standards by dischargers within the six county Chicago Metropolitan area would impose an arbitrary and unreasonable hardship. Since Lake County is within that area, the reasoning in that case applies here.

The Board finds that flows involved here are small and the quality of the effluent is good. The Board finds that there would be little or no adverse environmental impact. Given the Agency's allegation that had Midwest not been overlooked by the Agency, it would have been included in the joined parties in Bloomington, the Board concludes that a denial of variance from Rules 203(d) and 402 as they relate to DO and Rule 902(a)(1) as it relates to NPDES permit renewal prerequisites, would constitute an arbitrary and unreasonable hardship.

The Board finds that variance from Rule 404(f) is unnecessary in that the rule was deleted effective May 7, 1981. Thus, the 4 mg/l BOD₅ and 5 mg/l SS limitations have now been replaced with a 10/12 limitation. Since Midwest's Discharge Monitoring Reports indicate no violations of the present Rule 404 standards, no variance will be granted from that Rule.

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 Lake County where Midwest is located. Therefore, under Rule 902(j)(4) of Chapter 3 of the Board's regulations, Midwest must obtain a revision of that plan to include its discharge prior to Agency approval of construction of operating permits.

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

ORDER

1. The Midwest Baptist Conference is hereby granted variance from Rules 203(d), 402, and 902(i)(1) 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. Midwest shall obtain a modification to the NIPC wastewater treatment management plan;

- b. Midwest shall operate its treatment plant using the best practicable operation and maintenance practices; and
- c. Within 45 days of the date of this Order, Midwest 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:

CERTIFICATION

_____ hereby accepts and agrees to be
 Petitioner
 bound by all terms and conditions of the Order of the Pollution
 Control Board in PCB 81-55, dated _____.

 Petitioner

By _____, Authorized Agent

 Title

Date _____

2. Midwest is denied variance from Rule 404(f) of Chapter 3: Water Pollution.

3. The Illinois Environmental Protection Agency is hereby authorized to issue a renewed NPDES permit consistent with the terms and conditions of the variance relief granted in (1), above.

IT IS SO ORDERED.

J. Anderson and I. Goodman concur.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 7th day of August, 1981 by a vote of 5-0.

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