ILLINOIS POLLUTION CONTROL BOARD October 18, 1979

SANITARY DIST	RICT OF ROC	KFORD,)	
	Peti	tioner,))	
	v.) PCB 7	9-138
ENVIRONMENTAL	PROTECTION	AGENCY,)	
	Resp	ondent.	;	

OPINION OF THE BOARD (by Mr. Dumelle):

Petitioner requested a variance from Rules 404(a) and 408(a) as it pertains to cyanide and heavy metals of Chapter 3: Water Pollution. The Agency recommended that the variance be granted subject to conditions. No hearing was held. On October 4, 1979 the Board granted the variance for 60 days. This Opinion supports the Board's Order.

In cooperation with the Agency, Petitioner developed a plan for final connection of an approved expansion of Petitioner's sewage treatment facilities. The plan calls for diversion of Petitioner's secondary treatment works while final connection takes place. During these periods chemical coagulants will be added to Petitioner's primary clarifier to approximate secondary treatment. The diversion is to occur only on weekends until connection is completed. In Exhibit C attached to the Petition, Petitioner has indicated the anticipated efficiency of treatment during diversion. In Exhibit A Petitioner has requested specific effluent limitations less stringent than anticipated efficiency.

On May 16, 1979 the Agency approved of Petitioner's plans subject to compliance with a specific step by step procedure. The Agency also required that the work be done during a low flow period, preferably on weekends; that sufficient manpower be on hand to minimize damage to the water quality of the Rock River; and that Petitioner solicit the cooperation of all major industries contributing to the plant. On June 14, 1979 the Attorney General's office advised Petitioner that a variance would be needed to allow for the diversion during connection.

Petitioner feels that compliance with its proposed effluent limitations over the short (48 hour) periods will minimize environmental harm. Petitioner's only alternative to its proposal would involve a \$300,000 expense. The Agency agreed that the \$300,000 expense was unreasonable and approved of Petitioner's requested effluent limitations.

The Board concludes that denial of a variance in this instance would constitute arbitrary or unreasonable hardship. After reviewing the step by step procedure outlined in the Agency's Recommendation, the Board finds that it constitutes adequate protection during these short low flow periods. While Petitioner's requested interim effluent limitations are somewhat less stringent than its anticipated treatment efficiency, they lie in an appropriate range. The variance is limited to weekends during a 60 day period to provide adequate time to complete final connection.

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

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Christan L. Moffet Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD October 18, 1979

VILLAGE OF WAT	UCONDA,)
	Petitione	r,)
	v.) PCB 79-185
ENVIRONMENTAL	PROTECTION AGENC	CY,)
	Respondent	t.)

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

Petitioner has requested a variance from the drinking water standard for barium in Rule 304 B 4 of Chapter 6: Public Water Supplies. The Agency has recommended that the Petition be dismissed or, in the alternative, be granted subject to conditions. No hearing was held.

Petitioner operates four water supply wells. Three of these wells pump from raw water sources which comply with the barium standard of 1.0 mg/l. These three wells have a total capacity of 1.368 million gallons per day (MGD) and are adequate to handle Petitioner's needs except for cases of mechanical or electrical failure or during fires. The fourth well, which has a barium content of 3.6 mg/l, is disconnected from Petitioner's distribution system. Petitioner has requested relief for those emergency periods when the fourth well may be needed.

In <u>City of Breese v. EPA</u>, PCB 77-200, 27 PCB 207, August 4, 1977, the Board addressed a similar situation and stated as follows:

"The Board in the past has refused to accept petitions which, as here, anticipate an emergency condition before the fact, and request relief in case the emergency occurs. The Variance Section of the Environmental Protection Act does not envision such relief . . . The Board therefore will dismiss the Breese petition as inappropriate and note that an emergency situation would be a matter of evidence in any enforcement action that might be brought before the Board subsequent to the use of emergency equipment."

The Board hereby reaffirms its position on contingent or emergency variances. In this case Petitioner has not shown any circumstances which would distinguish its request from Breese's. Consequently this Petition shall be dismissed.

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

ORDER

Petitioner's request for a variance from the drinking water standard for barium in Rule 304 B 4 is hereby dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the day of ________, 1979 by a vote of _______.

Christan L. Moffet Clerk
Illinois Pollution Control Board