

measures in late 1980 at a cost of \$1,000,000 which should achieve consistent compliance with standards of 20 mg/l BOD₅ 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 BOD₅ 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 BOD₅ 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 BOD₅ 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 BOD₅, 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

1. 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 BOD₅ 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 BOD₅ 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 acceptance 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

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 18th day of October, 1979 by a vote of 4-0.

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