

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1980

WESTERN ELECTRIC COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB79-242
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

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

Petitioner has requested a variance from Rules 203(d), 203(f), (as it pertains to ammonia nitrogen), 402 (as it pertains to dissolved oxygen and ammonia nitrogen), 404(f), 902(j) and 962(a) of Chapter 3: Water Pollution. The Agency has recommended that the variance be granted in part subject to conditions and dismissed in part. No hearing was held.

Petitioner wishes to construct an office building in Lisle, Illinois near another facility operated by Bell Laboratories. Both Petitioner and Bell Laboratories are part of the Bell System. Petitioner's proposed facility will house a maximum of 2500 employees and will have a daily average discharge of 60,000 gallons per day (gpd) of domestic wastewater. On May 15, 1979 Petitioner filed applications with Lisle and with DuPage County (the County) to discharge its wastewater to the County's Lisle - Woodridge sewage treatment plant. This facility was placed on restricted status on May 31, 1979. This facility has been the subject of numerous recent variances before the Board (see Corporate West Development, Inc. and County of DuPage v. EPA, PCB 79-163, September 13, 1979 and October 4, 1979 and Rossmoor Associates v. EPA, PCB 79-171, October 4, 1979 and October 18, 1979).

Because of the restricted status designation, the Agency denied Petitioner's request to construct a sewer extension. Petitioner needs a variance so that it can construct a temporary sewage treatment facility which will be operated until the County constructs additional sewage treatment capacity to accept Petitioner's wastewater. Petitioner attempted to obtain an advance commitment from the County, Lisle, and the Agency to permit connection to the Lisle-Woodridge plant in 1981 but was unable to do so.

Petitioner's temporary facility will consist of a septic tank followed by sand filtration. The facility will discharge into Rott Creek and will be designed to meet the following effluent limitations as monthly averages.

BOD ₅	10 mg/l	
Suspended Solids	12 mg/l	
Ammonia Nitrogen	2.5 mg/l	(April - October)
Ammonia Nitrogen	4.0 mg/l	(November - March)

Petitioner is requesting a variance until November 1, 1984, the date the County will complete its Green Valley plant expansion, or until the County can accept Petitioner's wastewater, whichever occurs first.

Petitioner feels that the impact on Rott Creek, an intermittent stream, is difficult to assess. The Board has noted this difficulty in Village of Bloomingdale v. EPA, PCB 78-124; In the Matter of: Amendments to the Water Pollution Regulations, R77-12, Docket C; Lake Zurich v. EPA, PCB 78-89; and Wheaton Sanitary District v. EPA, PCB 78-299. Petitioner has asked and the Board agrees that the records in those proceedings be incorporated here.

Petitioner claims that it would suffer hardship if a variance were denied by not being able to go forward with its plans to produce computer programs for the Bell System's national telecommunications network. Petitioner feels it should not place its investment in land costs and land improvements in jeopardy because of the County's restricted status designation. If the variance were denied, Petitioner would be required to move its new facility elsewhere or incur additional lease expenses of \$1,750,000/year at four present locations. Petitioner feels that the location of its proposed facility is essential to maintain an intimate working relationship among its scientists, engineers and technicians in developing computer software. Petitioner acquired the subject site in 1974 at a cost in excess of \$4,800,000. Petitioner has already spent over \$250,000 in road and utility improvements under an annexation agreement with Lisle and is obligated to spend at least this much in additional improvements.

In its Recommendation the Agency states that the County's present plans for expansion of its sewage treatment facilities may not be adequate for its presently existing and permitted flows. The Agency feels that the reasons cited in Village of Bloomingdale v. EPA, PCB 78-124 support Petitioner's request for relief from Rules 203(d), 404(f), and 402 as it pertains to dissolved oxygen. Since Petitioner's proposed treatment facility will comply with Rule 402.1(b) during the winter months with an average effluent concentration of 4.0 mg/l ammonia nitrogen, the Agency feels that Petitioner will need a variance from Rule 203(f) as it pertains to ammonia nitrogen from April through October until June 30, 1982. Since all exemptions in Rule 402.1 expire on June 30, 1982, Petitioner will need a year round variance after that date. The Agency feels that in light of Petitioner's hardship, it should not be required to meet any more stringent ammonia nitrogen limitations than those requested. The Agency feels that relief from Rules 902(j) and 962(a) is not required.

The Board concludes that denial of a variance would constitute arbitrary or unreasonable hardship. Petitioner has already spent a great deal of money in good faith reliance on the County's ability to accept its wastewater. The Board agrees that the reasoning employed in Village of Bloomingdale v. EPA, PCB 78-124 should be employed here but that relief from Rules 203(d), 404(f), and 402 as it pertains to dissolved oxygen should be limited to the same term for consistency. Petitioner's proposed effluent limitations appear reasonable under the circumstances presented here. The Board agrees that Rule 902(j) is not applicable and that relief from Rule 962(a) is unnecessary once this variance is granted.

On January 7, 1980 the Board received a letter from Thomas H. Weiland stating that this variance should not be granted. The letter does not request a hearing and does not state any facts in support of its opposition. Consequently it is not construed as an objection and no hearing will be ordered by the Board.

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

ORDER

1. Petitioner is hereby granted a variance from Rule 203(d) and 402 as it pertains to dissolved oxygen of Chapter 3: Water Pollution until October 19, 1983 or until Petitioner's wastewater is diverted to DuPage County's sewage treatment facilities, whichever occurs first.

2. Petitioner is hereby granted a variance from Rule 404(f) of Chapter 3: Water Pollution until October 19, 1983 or until the Board reaches a final decision in R77-12, Docket C or until Petitioner's wastewater is diverted to DuPage County's sewage treatment facilities, whichever occurs first, provided that effluent concentrations discharged from Petitioner's treatment facilities not exceed 10 mg/l BOD₅ and 12 mg/l suspended solids as monthly averages.
3. Petitioner is hereby granted a variance from Rules 203(f), 402 and 402.1 of Chapter 3: Water Pollution as they pertain to ammonia nitrogen until June 30, 1982 for the months of April through October and year round from July 1, 1982 until November 1, 1984 or until Petitioner's wastewater is diverted to DuPage County's sewage treatment facilities, whichever occurs first, provided that effluent concentrations discharged from Petitioner's treatment facilities not exceed 2.5 mg/l ammonia nitrogen from April through October and 4.0 mg/l from November through March as monthly averages.
4. Petitioner's request for a variance from Rules 902(j) and 962(a) of Chapter 3: Water Pollution is hereby denied.
5. Petitioner shall apply for and obtain all necessary Agency construction and operating permits prior to construction and operation of its sewage treatment facility.
6. The Agency is hereby authorized to issue a NPDES permit to Petitioner in a manner consistent with the terms and conditions of this variance.
7. Within 45 days of the date of this Order, Petitioner shall execute a certification of acceptance and agreement to be bound to the terms and conditions of this variance. The 45 day period shall be held in abeyance if this matter is appealed. The certification shall be forwarded to the Illinois Environmental Protection Agency, Division of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706 and shall read as follows:

CERTIFICATION

I (We), _____, having read and fully understanding the Order in PCB 79-242 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 were adopted on the 10th day of January, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board