

ILLINOIS POLLUTION CONTROL BOARD
October 9, 1986

CITY OF ELMHURST,)
)
 Petitioner,)
)
 v.) PCB 86-169
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

This provisional variance request comes before the Board upon an October 8, 1986 Recommendation of the Illinois Environmental Protection Agency (Agency). The Agency recommends that a one-hour provisional variance be granted to the City of Elmhurst (Elmhurst) from 35 Ill. Adm. Code 304 and Ill. Adm. Code 309 in order to allow discharge of raw sewage to Salt Creek while a section of trunk sewer is televised.

The City of Elmhurst, which has a population of 44,200, is a duly incorporated municipality located in DuPage County in northeastern Illinois. Elmhurst owns and maintains 160 miles of collection system sewers which are tributary to its wastewater treatment facilities. The city has requested a provisional variance to allow it to discharge a maximum of 80,000 gallons of untreated sanitary water into Salt Creek located within the boundaries of Elmhurst. (Pet. 1).

The Petitioner's problems began in March, 1986, when a large section of 42 inch main sewer trunk located on Alexander Street between Hawthorne Street and Fairfield Street collapsed. After Elmhurst's Public Works Department repaired this section of sewer, the Petitioner decided that a large section of the 42 inch main needed to be inspected for further defects. The particular section which needs to be inspected is located between the intersection of First Street and Highland Street, as well as between the intersection of Alexander Street and Hawthorne Street. (Pet. 1). The actual distance involved is about 800 linear feet.

According to the Petitioner, the 42 inch sewer section is especially important because it passes under the Chicago & Northwestern railroad tracks which carry both commuter and

freight traffic. Railroad traffic both into, and out of, the Northlake (Proviso) railroad yards (which are located east of the city) is very heavy because the tracks are busily used throughout the day and nighttime hours. (Pet. 1-2).

In order to televise the entire length of the sewer section to ascertain whether further structural defects exist, the sewer must be emptied and kept reasonably free of liquid flow. (Pet. 2; Rec. 1). Because the sewer is a main trunk without any parallel sanitary line to bypass flows to, and since the sewer line travels under some very heavily utilized railroad tracks, it is physically impractical and virtually impossible to route the sewage around this section above ground while the televised inspection is performed. Consequently, the City of Elmhurst has contended that there is no feasible alternative to bypassing sewage to Salt Creek via a storm sewer during the inspection of the sewer line. (Pet. 2; Rec. 2).

The city plans to plug 24 inch and 36 inch feeder lines to the 42 inch main sewer and allow these two lines to surcharge. Bypassing to a storm sewer which runs down First Street would begin just before sewage begins backing up into basements. The First Street storm sewer would then carry the sewage directly into Salt Creek. The Petitioner intends to disinfect the bypassed sewage with a chlorine compound and estimates that the total time of bypassing would be less than one hour. (Pet. 2; Rec. 2).

Elmhurst believes that a maximum of 80,000 gallons of sewage with an approximate strength of 95 milligrams per liter (mg/l) biochemical oxygen demand (BOD), 60 mg/l total suspended solids (TSS), and 18 mg/l ammonia would be bypassed and expects that the impact of this discharge on Salt Creek will be minimal. (Pet. 1).

The Agency agrees with the Petitioner's assessment of this situation and also expects that the environmental impact of the requested relief will be minimal. The Agency notes that the creek's average flow was 3.9 million gallons per hour with an average dissolved oxygen concentration of 8.3 mg/l and an average total ammonia nitrogen concentration of 0.72 mg/l, based upon water quality data collected during October, 1984 through September, 1985 (Water Year 1985) at the Western Springs water quality station on Salt Creek. (Rec. 3). Therefore, considering the large dilution factor of approximately 48 to 1 which can be expected, the Agency believes that the environmental impact in this case will be minimal.

Although Federal regulations generally prohibit the discharge of raw sewage directly to a receiving stream, the Agency emphasizes that 40 CFR 122.41(m)(3)(1), 122.41(m)(4)(i)(B), and 122.41(m)(4)(ii) do make provision for

bypassing under certain conditions, thereby allowing this discharge. (Rec. 3). In its Recommendation, it is indicated that "although the Agency cannot provide relief from federal regulations, the Agency considers the above cited federal regulations to be applicable to Petitioner's situation". (Rec. 3).

The City of Elmhurst contends that denial of its requested provisional variance would impose an arbitrary or unreasonable hardship because it is vitally necessary that its main sewer line be expeditiously and thoroughly inspected for further structural or other defects and notes that its discharges during the short time period of one-hour or less would have a minimal effect on the water quality of Salt Creek. (Pet. 1-2).

The Agency has stressed "the strategic location of this section of sewer in the collection system, the uncertainty of its present condition in light of the March, 1986 sewer collapse, and Petitioner's plan to keep bypassing of sewage to a minimum" as reasons why denial of the requested relief would be inappropriate. (Rec. 2).

For the previously mentioned reasons, the Agency agrees with the Petitioner's assessment of hardship and has therefore concluded that immediate compliance on a short-term basis with 35 Ill. Adm. Code 304 and 309 would impose an arbitrary or unreasonable hardship upon the City of Elmhurst. (Rec. 1-3). Additionally, there are no public water supplies which would be adversely affected by the grant of the requested relief. Accordingly, the Agency has recommended that the Board grant the Petitioner a provisional variance from 35 Ill. Adm. Code 304 and 309, subject to various specified conditions.

Pursuant to Section 35(b) of the Illinois Environmental Protection Act, the Board hereby grants the provisional variance as recommended. Language has been added to the Agency's recommended order to reflect the statutory 45-day period for any provisional variance.

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

ORDER

The Petitioner, the City of Elmhurst, is hereby granted a provisional variance from 35 Ill. Adm. Code 304 and 309 in order to allow discharge of raw sewage to Salt Creek while a section of trunk sewer is televised, subject to the following conditions:

1. This provisional variance shall be for a maximum period of one (1) hour within a 45-day period to allow

bypassing only from the 42" sewer main as specified in Petitioner's request for provisional variance.

2. The Petitioner shall schedule the indicated inspection for the low flow period during daylight hours and shall follow the procedure set forth in its request for provisional variance.
3. The Petitioner shall notify Mr. Ted Denning of the Agency's Maywood Regional office via telephone at 312/345-9780 when the work is to be performed, when bypassing begins, and when bypassing ends and normal operation is restored. Written confirmation of each telephone notification shall be submitted within 5 days to the Agency at the address given below:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Division
2200 Churchill Road
Springfield, Illinois 62706

Attention: Mr. Dan Ray

4. The Petitioner shall do its utmost to minimize both the duration and volume of bypassing.
5. Within 10 days of the date of the Board's Order, the Petitioner shall execute a Certificate of Acceptance and Agreement which shall be sent to Mr. James Frost of the Agency at the following address:

Mr. James Frost
Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
Springfield, Illinois 62706

This certification shall have the following form:

I, (We) _____, having read the Order of the Illinois Pollution Control Board in PCB 86-169 dated October 9, 1986, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

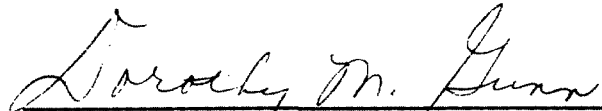
By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 9th day of October, 1986 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board