

ILLINOIS POLLUTION CONTROL BOARD
May 25, 1978

GALESBURG SANITARY DISTRICT,)
)
) Petitioner,)
)
) v.) PCB 77-192
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

Gilbert H. Brown, Lucas, Brown & McDonald, appeared on behalf of Petitioner.
Patrick J. Chesley, Assistant Attorney General, appeared on behalf of the Respondent.

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

This matter returns to the Board upon a Motion filed on January 20, 1978, by the Galesburg Sanitary District to reconsider the Board decision of December 20, 1977, which withheld the remedy of an abatement order as a condition to a grant of the variance. On February 2, 1978, the Board granted Petitioner's Motion and set this matter for hearing.

In the December 20, 1977, Order, the Board granted a variance from the Rule 203(f) ammonia nitrogen water quality standard, the Rule 404(f) requirements (BOD₅ and suspended solids), and Rule 602(d) combined sewer overflow requirements of Chapter 3 until June 1, 1982, provided that Petitioner follow its proposed construction grants program. Petitioner's request for an abatement order was rejected notwithstanding the Agency favorable recommendation; the Board found no evidence in the record which justified entry of such an order.

A hearing was held on April 5, 1978, in Galesburg, Illinois. At the hearing, Petitioner introduced testimony of Mr. James L. Hawley, a consulting engineer for the Galesburg Sanitary District. Mr. Hawley estimated the total cost for the proposed construction project would be \$20 million. The plan contemplates upgrading the Galesburg sewage treatment plant to meet 10 mg/l BOD₅, 12 mg/l suspended solids and 1.5 mg/l ammonia nitrogen and correcting combined sewer overflow problems in its system. Under the federal matching program, the Galesburg Sanitary District must contribute 25% or \$5 million dollars total amount of the project.

Testimony by Don Johnson, Treasurer of the Galesburg Sanitary District, indicated that the District had attempted to raise the necessary monies in a bond referendum on April 5, 1977. The proposal to issue \$5 million of general obligation bonds was defeated by a vote of 3423 to 1805 or almost a 2 to 1 margin. The District Treasurer further testified that the Sanitary District would have no other means for raising the matching funds for the construction grants program unless the Board issued an abatement order in this matter (Rec. pl3).

In the Motion of January 20, 1978, Petitioner states that it has continuously objected to the expenditure of approximately \$20 million for the purpose of abating pollution because they fail to see the economic justification for the expenditure and it is probable that this attitude is reflected in the rejection of the referendum on April 5, 1977. However, the Petitioner has not, at any time, placed any facts before the Board in justification of their conclusion that the expenditure is unnecessary. The pleadings and the Agency Recommendation clearly indicate that the facilities as they now exist are inadequate.

The Board affirms its finding of December 20, 1977, that Petitioner's proposed construction program is necessary to achieve compliance. In view of this supplemented record, the Board will grant a variance from Rules 203(f) (ammonia nitrogen), 404(f) and 602(d) of Chapter 3 on the condition that Petitioner will abate these violations on or before June 1, 1982.

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

ORDER

1. Galesburg Sanitary District is hereby granted a variance from Rules 203(f) (ammonia nitrogen), 404(f) and 602(d) of Chapter 3: Water Pollution Regulations provided that the District shall abate its discharge of inadequately treated wastewater and to correct bypass and combined sewer overflow problems in accordance with the following project completion schedule:

- a. Submit Status Report to the Agency--May 1, 1978
- b. Submit plans and specifications for Phase IV (sewer separation) to the Agency -----May 15, 1978
- c. Arrange local financing for Phases I, III, IV, and V (STP improvements)-----June 1, 1978

- d. Open Bids (Phase IV)-----July 1, 1978
- e. Step 3 Grant and Advertise for Bids
(Phases I, II, V)-----August 15, 1978
- f. Award Contracts (Phase IV)-----September 15, 1978
- g. Open Bids (Phases I, III, V)-----October 1, 1978
- h. Award Contracts (Phases I, III, V)--December 31, 1978
- i. Complete all Construction-----June 1, 1982

2. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be suspended during judicial review of this variance pursuant to Section 41 of the Environmental Protection Act. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 77-192, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

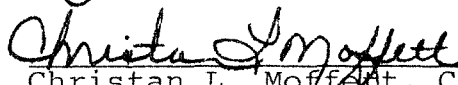
SIGNED

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 25th day of May, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board