

ILLINOIS POLLUTION CONTROL BOARD  
September 30, 1976

CITY OF SPRING VALLEY,                            )  
  )  
  ) Petitioner,    )  
  )  
  ) v.    ) PCB 76-203  
  )  
ENVIRONMENTAL PROTECTION AGENCY,             )  
  )  
  ) Respondent.    )

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

This matter comes before the Board on the variance petition filed August 2, 1976, by the City of Spring Valley seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. The Agency filed a Recommendation on September 9, 1976; no hearing was held in this matter.

Rule 602(d)(3) establishes a compliance date of December 31, 1975 for Rule 602(c), which requires in part that all combined sewer overflows shall be given sufficient treatment to prevent pollution or a violation of the applicable water quality standards.

The City of Spring Valley provides wastewater treatment for an average daily dry weather flow of about 1 MGD consisting of both industrial and domestic waste. Petitioner indicates that sewer construction since 1959 has been limited to the installation of sanitary sewers in newly-developed areas and storm sewers in existing developments.

The City of Spring Valley has a Step I grant and a facilities plan is being prepared for submission to the Environmental Protection Agency in November, 1976, unless a Sewer System Evaluation is dictated by a cost benefit analysis of the alternatives of excess flow treatment or sewer system rehabilitation, in which case submission of the facilities plan will be delayed until the evaluation is completed.

Petitioner asserts that they have maintained a vigorous program of storm sewer construction and have completed the projects listed without State or Federal grant funding:

<u>YEAR</u>	<u>PROJECT NAME</u>	<u>TYPE OF PROJECT</u>
1972	John Mitchell Drive	Street Improvement with new storm sewer
1972	John Mitchell Outfall Sewer	Storm sewer outfall
1972	Mary Street	Street project with new storm sewer
1973	Strong & Richard Street	Street project with new storm sewer
1973	Dakota Street Storm Sewer	Sewer separation project
1974	Lawrence Ave. Storm Sewer	Sewer separation project
1974	Third Street	Street project with new storm sewer

The City alleges and the Agency agrees that the City would suffer an arbitrary and unreasonable hardship if forced to proceed with the collection system improvements needed prior to obtaining assistance from existing grant funds.

The Agency has recognized the fact that many municipalities and sanitary districts throughout the State have not met and cannot presently meet the December 31, 1975 compliance date as set by Rule 602(d)(3). On December 22, 1975, the Agency filed an Amended Petition for Regulatory Change (R75-15) with the Board specifically requesting that the date for complying with Rule 602(d)(3) be extended until July 1, 1977, provided a grant application had been filed before December 31, 1975. Although the Board has not taken final action on this proposal, at its May 20, 1976 meeting, the Board authorized for publication a proposed final draft of the Rule Change which would adopt the substance of the Agency's amendatory proposal. The economic impact hearings were held on August 26, and September 1, 1976.

In view of the foregoing, the Board is disposed to grant the City the relief requested. We believe an arbitrary and unreasonable hardship would be placed on the Petitioner by requiring the capital outlays necessary for compliance without first allowing Petitioner to obtain assistance from existing grant programs, and particularly so when the Petitioner would be precluded from any reimbursement from State/Federal grant funds if it were to proceed in advance of a particular grant award (The Clinton Sanitary District, PCB 75-498; The Sanitary District of Elgin, PCB 75-501).

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

ORDER

1. The City of Spring Valley is granted variance from the compliance date for combined sewer overflows as established by Rule 602(d)(3) of the Water Pollution Rules and Regulations. Such variance is granted until July 1, 1977, or until the Board adopts an Amendment to the Regulations in consideration of the Agency Regulatory Proposal (R75-15), whichever is earlier.

2. The City is required during the period of this variance to maintain optimum operating efficiency and convey as much combined sewer flow to the treatment plant as is possible.

3. The variance grant for Petitioner will immediately terminate if Petitioner is offered a grant during this period and does not respond with appropriate action to bring the combined sewer system into compliance.

4. Within 35 days of the date of this Order, the City 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 form of said certification shall be as follows:

CERTIFICATION

I, (We), \_\_\_\_\_ having read the Order of the Pollution Control Board in PCB 76-203, 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 30<sup>th</sup> day of September, 1976 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board