

ILLINOIS POLLUTION CONTROL BOARD
November 29 1979

BOBBY L. RUSH and MARTHA D. RUSH,)
et al.)
)
Complainants,)
)
v.) PCB 79-129
)
VILLAGE OF BARRINGTON)
)
Respondent)

MR. BOBBY L. RUSH appeared pro se.

MR. R. FORD DALLMEYER and MR J. WILLIAM BRAITHWAITE
TENNY & BENTLEY, appeared on behalf of Respondent.

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

The Complaint in this case alleges that Respondent violated Rules 601 and 602(b) of Chapter 3: Water Pollution by failing to adequately maintain sanitary and storm sewer lines resulting in overflows of the sewers. A hearing was held on September 17, 1979 in Barrington, Illinois. Testimony of witnesses from both parties was heard.

Testimony of the Complainants and their neighbors, many of whom joined as co-signatories to the original complaint, indicates that sanitary sewer overflows occurring during storms have been causing sewage to back up into Complainant's basements. The Respondent did not contest the fact that there is a definite problem with the area in dispute. Repairs on the sewer lines have been made within the past four years at the intersections of Monument and Lill which service Complainant's homes (R25). Efforts to correct the situation have been unsuccessful.

The overflow problems are due to the inadequate size of sanitary and storm sewer lines presently in use. Respondent has been on restricted status since 1976. Outages of the system, failure of a back-up system at the sewage plant and operation of the system above its design capacity were admitted by Respondent's witness, the Director of Public Works for the Village (R53-54).

Respondent has undertaken procedures for obtaining federal grant money to improve its system which should reduce the rate of flow into the sanitary sewer system and substantially alleviate any problem with respect to sewer backup in the Lill and Monument street area. A grant offer is to be presented in December, 1979 with construction to begin in the spring of 1980. Respondent has indicated that alternative procedures for repair of the system are possible, but would not hasten the project; work would still be undertaken in the spring (R74-76). Also, any temporary measures would not provide a cure.

Although Respondent moved for dismissal, indicating that the proof adduced at the hearing was not in accord with the allegations contained in the Complaint, the Board is able to interpret the evidence as violations of Rules 601 and 602(b) of Chapter 3.

Rule 601(a) of the Board's Water Rules expressly requires treatment works and associated facilities to be constructed and operated to minimize violations of applicable standards during flooding, adverse weather, power failure, equipment failure, or maintenance. Since the overflow occurs repeatedly during periods of rain it is clear that Respondent has not complied with the rule in minimizing violations during flood conditions. The Board finds the Respondent in violation of 601(a) of the Board's Water Rules.

Rule 602(b) of the Water Rules mandates sufficient retention or treatment capacity for sanitary sewers and prohibits excess infiltration. The Respondent has recognized the problems with its system and thus has instituted the federal funding procedures. The overflow of raw sewage into Complainant basements caused by the excessive infiltration and inflow and the inadequacy of the system are clear violations of Rule 602(b).

After review of the factors in Section 33(c) of the Environmental Protection Act, the Board finds that the sewage overflow has seriously interfered with the health, general welfare and physical property of the people. Complainant's homes have become dangerous sources of disease carrying bacteria and were extensively damaged. Furthermore, sewerage systems and sewage treatment facilities are of social and economic value only when properly functioning and when adequately maintained.

The Board has examined the factors bearing on the technical practicability and economic reasonableness of reducing or eliminating the overflows. Since Respondent has previously instituted a program for improvement of its system, it is the finding of the Board that Respondent shall pursue its rehabilitation project as expeditiously as possible.


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

ORDER

1. Respondent has violated Rules 601 (a) and 602 (b) of the Water Pollution Rules.
2. Respondent shall, as expeditiously as possible, pursue its efforts through federal grant procedures in obtaining federal funding for improvement of its sewage treatment facilities.
3. Respondent shall institute a program to minimize the occurrence and effects of overflows pending receipt of the funds described in Paragraph 2.

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 29th day of November, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board