

ILLINOIS POLLUTION CONTROL BOARD
September 15, 1976

AURORA SANITARY DISTRICT AND)
THE CITY OF AURORA,)
)
Petitioner,)
)
v.) PCB 76-83
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter came before the Board on the variance petition filed March 26, 1976, by the Aurora Sanitary District and the City of Aurora seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. An amended petition was filed on June 23, 1976 in response to a Board Order of April 8, 1976, in which additional information was requested. The Agency filed a Recommendation on August 13, 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 applicable water quality standards.

The Aurora Sanitary District provides wastewater treatment for an area which includes the City of Aurora and the Villages of Montgomery, North Aurora and parts of Oswego. The treatment plant presently has a design flow capacity of 32 MGD and the District is planning to enlarge the plant to a design flow of 50 MGD. The District also owns and operates sewer interceptors which collect wastes from combined sewers, many of which are owned and operated by the City of Aurora. The collection system of the District is capable of carrying a minimum of 2.5 times the dry weather flow of the combined sewer system before overflows occur.

The District has accepted a Step I grant for the sewer system evaluation survey. This grant includes all Step I work to be done within the City of Aurora. The District alleges that it is proceeding on a time schedule as approved by the Agency and the anticipated construction will provide for either the elimination of overflows or their treatment in accordance with the Board's Rules and Regulations.

The District and the City allege, and the Agency agrees, that they 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 both the City and the District the relief requested. We believe an arbitrary and unreasonable hardship would be placed on the Petitioners by requiring the capital outlays necessary for compliance without first allowing Petitioners to obtain assistance from existing grant programs, and particularly so when the Petitioners would be precluded from any reimbursement from State/Federal grant funds if they 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).

As a result of the Agency investigation in this matter, three overflow points (Pierce Street, East Berton Street Lift Station, and Farnsworth Avenue) were identified which are not presently subject to any NPDES permit or application and are allegedly subject of a dispute between the District and the City concerning responsibility for the overflow points. As suggested by the Agency, the Board will require that the Petitioners resolve the issue of responsibility for these overflow points so that appropriate corrective action can be timely undertaken.

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

ORDER

1. The Sanitary District of Aurora and the City of Aurora are 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 District and the City are 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 either Petitioner will immediately terminate if either is offered a grant during this period and does not respond with appropriate action to bring the combined sewer system into compliance.

4. Within 60 days of the date of the Order, the District and the City will submit to the Agency and the Board proof that they have resolved the issue of responsibility for all overflow points in the system over which there is dispute and apply for the necessary permits therefore.

5. Within 35 days of the date of this Order, the District and 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 76-83, 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 15th day of September, 1976 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board