

ILLINOIS POLLUTION CONTROL BOARD
July 22, 1976

CITY OF EFFINGHAM,)
)
 Petitioner,)
)
 v.) PCB 76-115
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on the variance petition filed April 26, 1976 by the City of Effingham seeking relief from Rule 602(c)(2) and Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. An Agency Recommendation was filed with the Board on June 22, 1976 and a Supplement to the Recommendation was filed on July 6, 1976.

Rule 602(d)(3) sets a compliance date of December 31, 1975 for Rule 602(c), which requires in subpart (c)(2) that primary treatment and disinfection be given to combined sewer overflows in excess of the dry weather flows plus first flush storm flows.

The City of Effingham engages in the collection, treatment, and disposal of wastewater generated by its population of approximately 9,500 people. The City estimates that it presently treats 75% of the combined flow. An estimated 300 million gallons of storm water is collected annually with the sanitary flow with approximately 50 million gallons of this amount being discharged without treatment. Petitioner alleges this untreated discharge occurs during high intensity rainfall (greater than 1" per hour) when the percentage of sanitary wastewater in the combined flow is probably less than 6%.

At the present time the treatment plant is on Agency imposed restricted status. (Rec. 2.) The existing STP treats flows up to 3.5 MGD. The maximum peak flow is just over 4 MGD. The present treatment facility cannot treat flows above this figure without causing serious damage to the treatment plant. The City has a Step I facilities planning grant and the Agency is presently reviewing the Step I documents. The City has a priority number of 46 applicable to the treatment of combined sewer overflows and the City can expect to qualify for a Step II and Step III grant. (Rec. 3.)

The City is also preparing plans for a new treatment plant and the City alleges it will suffer an unreasonable hardship if required to provide overflow treatment at the present time rather than completing all improvements at the same time. The cost of constructing the overflow treatment facilities is estimated at \$675,000.00 and if the City begins work on the overflow facilities prior to receiving the Step II and Step III grant awards, it will be precluded from any reimbursement from State/Federal grant funds.

The City alleges that the restriction on the extension of sewage collection facilities has imposed a severe economic hardship upon it. It need be pointed out, however, that the grant of this variance will not automatically cause the plant to be taken off restricted status. If that status has resulted solely from a combined sewer overflow problem, the relief requested by this variance will cause that status to be lifted, otherwise it would remain in effect.

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 have yet to be conducted in this matter.

In view of the foregoing, the Board is disposed to grant the City of Effingham the relief requested. We believe an arbitrary and unreasonable hardship would be placed on the City by requiring the massive capital outlays necessary for compliance without first allowing the City to obtain assistance from existing grant programs, and particularly so when the City would be precluded from any reimbursement from State/Federal grant funds if the City 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 Effingham is granted variance from the compliance date of Rule 602(d)(3) as it applies to the treatment of combined sewer overflows required by Rule 602(c)(2) of the Water

Pollution Rules and Regulations. Such variance is granted until July 1, 1977, or until the Board takes final action in consideration of Regulatory Proposal R75-15, whichever is earlier.

2. During the period of this variance the City shall maintain optimum plant operating efficiency and convey as much combined sewer flow to its plant as is practicable.

3. This variance will immediately terminate if the City is offered a State or Federal grant during this period and the City does not respond with appropriate action to bring the combined sewer system into compliance.

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 22ND day of July, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board