

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1976

CLINTON SANITARY DISTRICT,)
)
 Petitioner,)
)
 v.) PCB 75-498
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on the variance petition filed December 23, 1975 by the Clinton Sanitary District (District) seeking relief from Rule 602(d)(3) of the Board's Water Pollution Rules and Regulations (Rules). An Agency Recommendation was filed with the Board on January 23, 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 and treatment plant bypasses shall be given sufficient treatment to prevent pollution or a violation of applicable water quality standards.

The Clinton Sanitary District provides wastewater treatment for an area which is comprised primarily by the City of Clinton, which has a population of 7,500. The District owns and operates a sewage treatment plant and interceptor sewers, on which are presently located six storm water overflows, one of which is at the plant while the other five are on the interceptor sewers. The overflow at the plant is being eliminated by the construction of additional wastewater treatment facilities. The District's treatment plant is also being upgraded to increase its capacity to 4.9 MGD, an almost threefold increase in plant capacity. The five other combined sewer overflows remain a problem, however, and the District alleges that it will cost \$2,400,000 to bring the system into compliance.

The District alleges that it is now bonded to the legal limit in order to finance the present plant improvements; and absent a Section 46 Order of the Board the District is not able to raise more money. North Shore Sanitary District v. Pollution Control Board, 302 NE 2d 50 (1973). Thus, the

District alleges it cannot solve the overflow problem until it receives an IEPA and/or USEPA construction grant. The District applied for such funding on March 12, 1975, but received a priority position of 768 on the priority grant list.

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. On December 31, 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. The Board has not taken final action on this proposal.

We are disposed to grant relief. The District is currently bonded to its normal legal limits to pay for other treatment plant improvements. It has applied for state and federal grants in an effort to solve the problem of combined sewer overflows, but many other projects will be funded before the District's project. In view of these efforts, we believe an arbitrary and unreasonable hardship would be placed on the District by requiring the capital outlays necessary for compliance without first allowing the District to obtain assistance from existing grant programs, and particularly so when the District would be precluded from any reimbursement from grant funds if they were to proceed in absence of a grant award.

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

ORDER

1. The Clinton Sanitary District 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 such date as may be adopted by the Board in consideration of the Agency Regulatory Proposal (R75-15), whichever is later.

2. The District is required during this period to maintain optimum operating efficiency and convey as much combined sewer flow to its plant for treatment as is possible.

3. This variance will immediately terminate if the District is offered a grant during this period and the District does not respond with appropriate action to bring it 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 11th day of March, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board