

ILLINOIS POLLUTION CONTROL BOARD
January 30, 1973

DECATUR SANITARY DISTRICT)
)
) #72-500
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Petition for variance was filed by the Decatur Sanitary District requesting a waiver of Rule 921(d) of the Water Pollution Regulations. Rule 921(d), Water Pollution Regulations, provides as follows:

"921 Standards for Issuance

The Agency shall not grant any Permit required by this Part, except an Experimental Permit under Rule 907, unless the applicant submits adequate proof that the treatment works, sewer, or wastewater source:

...(d) if subject to a future compliance date, the applicant has an approved Project Completion Schedule in accordance with the provisions of Rule 1002."

On October 31, 1972, petitioner filed the project completion schedule required by Rule 1002(b). On November 15, 1972, the Agency advised petitioner that it could not approve the submitted project completion schedule because it reflected a completion date of September 15, 1974, whereas Rule 404(f) requires that completion be met by December 31, 1973.

On November 13, 1972, petitioner applied for a permit for Phase IIB of its upgrading program which project represents the major portion of work necessary to upgrade petitioner's treatment plant to meet water quality and effluent standards. Petitioner will also be obliged to secure additional permits for facilities that are part of its comprehensive upgrading program, designated as Phases IIIA, IIIB and IIIC as set forth in its project completion schedule, all of which is attached to the variance petition filed herein.

Rule 921(d) prohibits the Agency from issuing a permit for treatment works unless the applicant has an approved project completion schedule in accordance with Rule 1002, which, of course, petitioner does not have presently. However, because of the foregoing

Rule, the Agency cannot issue a permit allowing construction of the facilities involved in Phase IIB and subsequent portions of petitioner's upgrading program.

The Agency states, in its Recommendation, that granting the limited variance requested by this petition will, in no way, modify petitioner's responsibility to meet all other requirements of the applicable regulations and that insistence on compliance with Rule 921(d) will impede rather than further petitioner's compliance with the necessary Regulations. The Agency has also filed a motion that we grant the variance without hearing, and additionally, has filed a memorandum in further support of its views that the variance be granted. We are persuaded that the position of the petitioner, as confirmed by the Agency, has merit and that a denial of the petition would constitute insistence on a technical requirement that would be in derivation rather than furtherance of the objectives of the Regulations. Accordingly, we grant the variance as requested and without hearing.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that Decatur Sanitary District be granted a variance from the requirements of compliance of Section 921(b), Water Regulations, which will enable the Environmental Protection Agency to process petitioner's permit applications, without regard for said section.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 30th day of January, 1973, by a vote of 3 to 0.

Christan L. Moffett