ILLINOIS POLLUTION CONTROL BOARD April 12, 1973

CITY OF ELMHURST,))
	Petitioner,))
ν.) PCB 73-57)
ENVIRONMENTAL PROTI	ECTION AGENCY,))
	Respondent.)

Charles Weigel, Jr., on behalf of City of Elmhurst; Steven C. Bonaguidi, Assistant Attorney General, on behalf of Environmental Protection Agency.

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

Petitioner, the City of Elmhurst, an Illinois municipal corporation, filed a petition for Variance dated February 8, 1973, therein requesting a waiver of Rule 921(d) of Chapter 3: Water Pollution Regulations. Rule 921(d) provides as follows:

"921 Standard 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."

Thus, 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. Pursuant to Rule 1002(b)(ii), Petitioner was to have filed a Project Completion Schedule by September 1, 1972; such Project Completion Schedule showing compliance with the effluent standards of Rule 404(c) not later than December 31, 1973.

On July 7, 1972, Petitioner was granted permit number 1972-AB-760 by the Agency, approving its Plans and Specifications for the wastewater plant expansion. Petitioner was permitted to install, own and operate one primary settling tank, one aeration

tank, two final settling tanks, an effluent pump station, two chlorine contact-excess flow tanks, one sludge thickener, twenty sludge drying beds, and related appurtenances, with discharge to Salt Creek, tributary to the Des Plaines River.

On January 31, 1973, the Agency disapproved Petitioner's Project Completion Schedule since the schedule did not provide for compliance with Rule 404(c) by December 31, 1973.

Petitioner states quite frankly that it cannot realistically allege completion of its proposed project in compliance with Rule 404(c) by the deadline of Rule 1002(b)(ii). Petitioner requests an additional nine to twelve months.

Petitioner has received approval of its application for Federal grant funds under the provisions of the Federal Water Pollution Control Act. This \$1,527,290 grant is expressly conditioned upon beginning construction by June 1, 1973.

Petitioner asserts that the Federal deadling makes it impossible to proceed with a formal hearing for the variation requested, advertise for bids, and get approval of same by State and Federal Agencies by June 1, 1973.

The granting of the variance requested by this petition will, in no way, modify Petitioner's responsibility to meet all other requirements of the applicable regulations. It is the finding of the Board that insistence on compliance with Rule 921(d) will impede rather than further Petitioner's compliance with the necessary Regulations and would be in derogation rather than furtherance of the objectives of the Regulations. Accordingly, we grant the variation 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 the City of Elmhurst be granted a Variance without hearing from the filing date requirements of Sections 921(d) and 1002(b)(ii) of the Water Pollution Regulations.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the /2 * day of ______, , 1973, by a vote of ______ to ____.