

set out in Part IV of this Chapter; or

2. evidence establishing that the sewer, treatment works or both the sewer and its treatment works are adequate in their present condition to dispose of wastes from new or increased sources without violating the effluent standards set out in Part IV of this Chapter.

(c) Form of proposal. All proposals submitted pursuant to the requirements of Section 604(b) (1) must give a complete description of the plan adopted by the sanitary district, municipal corporation or other public or private body responsible for its operation for the improvement and upgrade of the sewer, treatment works or both the sewer and its treatment works. For purposes of this section a plan will be considered incomplete if it does not include the following:

1. a description of the physical changes to be made in the existing sewer, treatment works or both the sewer and its treatment works;
2. an estimate of the cost to improve and upgrade the existing sewer, treatment works or both the sewer and its treatment works in the manner set out in the plan;
3. an estimate of the time it will take to improve and upgrade the existing sewer, treatment works or both the sewer and its treatment works in the manner set out in the plan; and
4. the method adopted to finance the improvements.

(d) Implementation of proposal. In the event a sewer, treatment works or both a sewer and its treatment works has an average flow influent for a period of three consecutive months which is equal or in excess of 90% of its operating capacity as determined in accordance with the effluent standards set out in Part IV of this Chapter, the sanitary district, municipal corporation or other public or private body responsible for the operation of the sewer, treatment works or both, the sewer and its treatment works must, within 90 days from the last day of the third consecutive month begin implementing a plan previously approved by the Board for improving and upgrading the sewer, treatment works or both the sewer and its treatment works so that it will be able to dispose of wastes from new or increased sources without violating the effluent standards set out in Part IV of this Chapter.

Hearings were held in Chicago and Edwardsville on January 25 and February 26, 1973 respectively.

We find the record inadequate to support the proposal. The only evidence presented in favor of the proposal was the testimony of one representative of the Home Builders Association who appeared to know much more about public relations than about water quality or sewage treatment plants. He plainly admitted that neither he nor his Association had any technical expertise on the subject. The stated intention of the Association here was merely to present the idea of automatic treatment plant expansion and then let the Board work out the details in some legally and technically acceptable form. We choose, however, not to adopt this approach to the regulatory process before the Board. We expect the proponents of regulations to bear some burden of demonstrating the need for their proposals. This was not done in this case. The only thing we agree upon here is that there is a need for improved water quality. The record, however, does not establish a need for compulsory, automatic treatment plant expansion as the regulation proposes. There is no proof that the hardship, if any, created by a sewer connection ban outweighs the hardships which would be created by automatic expansion. In fact, there is no proof that a sewer ban per se would create any hardship at all, and even if some were created, the Act provides for variances which would relieve such hardship if appropriate.

There is no proof that the proposal would be feasible. To the contrary, there is much evidence submitted by municipalities, sanitary districts, waste water utilities and engineering consultants which points out that it would be totally unfeasible to require automatic expansion at a certain fixed point because of the uncertainty involving population trends and financing.

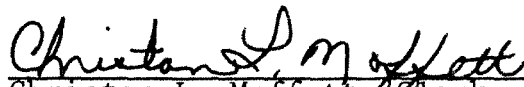
We view this proposal as more of an attempt to create unlimited opportunities for builders to carry on their business for their own profit than as an attempt to really upgrade water quality. We understand the proponents' position but we cannot accept their proposal.

The proposed regulation in this proceeding is dismissed.

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order of the Board was adopted on the 17th day of May, 1973 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board