

ILLINOIS POLLUTION CONTROL BOARD
December 19, 1974

JOSEPH V. GIFFIN)
COMPLAINANT)
)
)
v.) PCB 74-316
)
)
VILLAGE OF HINSDALE, a)
municipal corporation)
RESPONDENT)

MR. JOSEPH V. GIFFIN, ATTORNEY, as Complainant pro se
MR. JAMES ARTHUR THORPE, ATTORNEY, in behalf of RESPONDENT

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This action involves a citizen complaint filed on August 27, 1974. The Complaint alleges violation of Sect. 12 (a) of the Environmental Protection Act. Hearing was held in the Village of Hinsdale on November 12, 1974.

The Village of Hinsdale is a municipal corporation organized in 1873 and is governed by a president and a board of trustees. The functions of the city are carried out under the provisions of "The Illinois Municipal Code of 1961, as amended." The instant complaint rests on the allegation that the city has and continues to operate its sewer system in such a manner as to cause backing up of sewage during periods of heavy rainfall. It is further alleged that the inadequacy of the transport system and resulting backup constitute water pollution as defined in Section 12 (a) of the Act.

At hearing Mr. Giffin (who appeared as complainant pro se) described the situation in the area. Mr. Giffin alleges that during periods of moderate to heavy rainfall a manhole cover at Third and Princeton Streets blows off and raw sewage overflows (R. 5). He further states contaminants are found both in the street and on his lawn after such incidents (R. 5). Allegations of bad odors after such incidents were also cited (R. 6).

Mr. E. Webb (Director of Public Service) was then called as a witness for Complainant. Mr. Webb proceeded to describe the reasons for the alleged problems. The following quote details the situation:

"During these periods of heavy rains, which we have maybe five or six a year, literally - in addition to the Third Street system here becoming overloaded, the entire community overloads in essence to the point where all the sewers in this area back up, and selectively low spots in the community have

have been subject to some basement flooding as a result of the overloading." (R. 9)

Mr. Webb then described a plan which the city has on file which in his opinion would solve the problem. The plan calls for construction of 42-inch, 36-inch, 24-inch, and smaller pipes, as well as the elimination of all street drains that are now connected to the combined sewers (R. 11). The plan in essence is the construction of a storm sewer to relieve the burden of the present combined system. In addition to the hydraulic capacity, Mr. Webb discussed the overloading of the Hinsdale treatment plant. It is alleged that flows of up to 20×10^6 gpd are received by the plant, which has a capacity of about 5×10^6 gpd. It is felt that the above plan would significantly reduce storm water flow to the treatment plant (R. 14).

The cost of such a sewer modification is alleged to be \$545,360 (R. 13). Mr. Webb stated that the village has no funds on hand to finance the improvement. The village bonding indebtedness is \$3,491,000 against an assessed valuation of \$82,077,826 (R. 12).

Under cross-examination Mr. Webb stated that the overflow from the present sewer system presently flows via the storm water system to a tributary of Flag Creek (R. 14).

During closing statements Mr. Thorpe (attorney, Village of Hinsdale) admitted that the allegations of the Complaint were true. He further stated that the village had attempted to relieve the situation by commencing a special improvement. However, the Circuit Court ruled this to be a general improvement which could not be accomplished by special assessment. The finding of the Court is presently on appeal. The Board finds that the pending appeal has no bearing on any questions which have been brought before the Board in the instant case.

After consideration of the evidence elicited at hearing, the Board finds that Respondent has violated Section 12 (a) of the Act. In reaching this decision and formulating its order in this matter, the Board has been cognizant of Section 33 (c) of the Act. We find that: the violations did and do cause an interference with the protection of the health and physical property of the people; the question of social and economic value of the source (sewer) is not relevant, nor is the suitability of the source; the question of economic reasonableness and technological feasibility of compliance was amply covered and indeed endorsed by the village in its attorney's closing statement.

Petitioner should examine Section 46 (a) of the Act, for a possible means of financing the sewer modification.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent is found in violation of Sect. 12 (a) of the Environmental Protection Act.
2. Respondent shall cease and desist violations of the Act within nine months of the date of this Order.
3. Respondent shall file with the Illinois Environmental Protection Agency at 2200 Churchill Road, Springfield, Illinois, 62706, within sixty (60) days of the date of this Order a compliance plan, detailing how and when Respondent shall comply with Order #2 above.

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 19th day of December, 1974, by a vote of 4 to 0.

Christan L. Moffett