

ILLINOIS POLLUTION CONTROL BOARD
February 27, 1973

CITY OF EAST MOLINE

v.

ENVIRONMENTAL PROTECTION AGENCY

PCB 72-460

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

This is a petition for variance from Rule 404 (b)(i) of the Illinois Water Pollution Regulations which requires that no effluent whose untreated waste load is 10,000 population equivalents or more being discharged to the Mississippi River shall exceed 20 mg/l BOD and 25 mg/l suspended solids (SS) after December 31, 1973. Hearing was held on January 16, 1973.

The City's present sewage treatment plant provides only primary treatment and chlorination of its effluent. It discharges into Pool 15 of the Mississippi River. The plant has a design hydraulic capacity of 4.5 MGD with an average flow of around 3.0 MGD. Any excess flow is bypassed directly to the Mississippi River without treatment.

The monthly operating report submitted by the City for July, 1972 showed 126 mg/l BOD and 55 mg/l SS. The report for August, 1972 showed 125 mg/l BOD and 65 mg/l SS. The report for September, 1972 showed 123 mg/l BOD and 110 mg/l SS.

The Agency has also taken samples of the plant effluent. The same taken on July 24, 1972 showed 41 mg/l BOD, 55 mg/l SS and 78,000/100 ml fecal coliform. The sample taken on September 20, 1972 showed 130 mg/l BOD, 65 mg/l SS and 44,000/100 ml fecal coliform. The sample taken on November 8, 1972 showed 210 mg/l BOD and 110 mg/l SS.

The East Moline sewage treatment plant was originally regulated by Sanitary Water Board Rule 12 under which they were not scheduled to begin construction of secondary treatment facilities until December, 1976. On

January 19, 1971, notice was given to the City that it would have to upgrade its plant to provide secondary treatment by December 31, 1973, in accordance with the revised regulation R70-3 adopted by the Board on January 6, 1971. R70-3 was thereafter superseded by Rule 404 (b) (i) of the Water Regulations, from which this variance is requested.

Some of the significant events occurring in the City's abatement program were as follows. On July 28, 1968 the City entered into an engineering agreement with their consultant. On November 27, 1968 the consultant submitted to the City a master plan for the primary plant expansion. In September, 1969 the City authorized the consultant to begin work on the expansion after completing work on the interceptor sewer. In February, 1970, the consultant received a letter from the Sanitary Water Board insisting upon secondary treatment. In June, 1971, a contract amendment was negotiated between the consultant and the City for the basic engineering to design a secondary treatment plant expansion to double plant capacity to 7.1 MGD. In August, 1971 the consultant submitted to the City a time schedule for the secondary plant with a final completion date of December 31, 1973. Adhering to that schedule would have brought the City into compliance with Rule 404 (b) (i) of the Water Regulations. The following week that time schedule was submitted to the Bi-State Planning Commission. A week later Bi-State recommended that Silvis, Illinois be included and that the original Metropolitan Sewer Plan not be changed. Two weeks later, on September 23, 1971, contract amendment number two to the basic engineering agreement was proposed which allowed the consultant to proceed with the industrial gauging and sampling program. On October 12, 1971, a letter from the Agency was received stating that while the original plan had been approved, the Agency was unable to determine an appropriate solution at that time. The Agency requested all relevant documents in the matter and, after review, was to give some conclusion on the matter. A week later the Agency notified the City that it was on the critical review list for sewer extension. On November 30, 1971, the consultant presented to the City its complete report on the proposed plant pursuant to the earlier engineering agreements. Two days later the report was submitted to the Agency. On December 7, 1971, the City received a letter from the Agency stating that its policy will require that no additional volume of effluent from municipal sewage treatment plants be discharged into the Mississippi River pool above Dam No. 15. On December 22, 1971, the engineering report was sent to Bi-State for review. On January 12, 1972, the Agency requested Bi-State to re-evaluate that portion of the Total Water Quality Management Plan which calls for continued and increased discharges into Pool 15. A week later Bi-State approved the City's plan but cautioned about final

design until the Pool 15 issue was settled. On January 28, 1972 the City received a notice of a hearing in Chicago which was then continued until March 3, 1972 in Rock Island. On February 17, 1972, the Mayor of the City sent a letter to the Agency stating that the City had in good faith tried to keep on schedule in order to meet the December 31, 1973 deadline but that due to recent developments it would be impossible to begin final design and meet the deadline until all parties agree on what is to be done. A week later at a meeting in Springfield, Bi-State agreed to study all available alternatives and report back to all parties involved. On March 17, 1972, Bi-State made that report to the Agency. On April 5, 1972, the Agency requested Bi-State to present a cost analysis of the various alternatives in their report. On April 28, 1972, the City submitted to the Agency a grant application for the proposed 7.1 MGD plant. On June 15, 1972, the Agency agreed that the East Moline plant was the proper location for serving the East Moline - Silvis - Carbon Cliff - Hampton areas. On June 16, 1972, there was a meeting in Springfield between the Agency, Silvis and East Moline where it was proposed that the plant size be increased to 11.1 MGD due to enlarging the proposed area to be served by East Moline's plant. On July 24, 1972, there was a meeting held between East Moline, Silvis and Bi-State at which time East Moline's consultant presented a new time schedule based upon an 11.1 MGD plant which added six more months to the overall schedule. At that time the Agency had not yet approved the enlarged capacity. On September 26, 1972, the City sent a letter to the Agency expressing concern that there was still no answer from the Agency regarding approved plant capacity so that the City begin final design. On October 18, 1972, there was another letter sent to the Agency similar to the one sent September 26. On October 20, 1972, the City received a letter from the Permit Section of the Agency stating that they could not approve the completion schedule because it extended past the December 31, 1973 deadline. On October 24, 1972, there was a letter sent by the Agency to the Federal Environmental Protection Agency finally approving the design capacity at 11.1 MGD.

According to the City's proposed time schedule, they are to submit their plans and specifications for the general construction contract to the Agency by June 2, 1973. They plan to receive bids for the general construction contract by September 8, 1973. They plan to begin construction by October 6, 1973. They plan to begin operating the expanded primary facilities by June 5, 1974 and finally they plan to have the secondary facilities in operation by December 27, 1975.

The City submitted a Project Completion Schedule to the Agency on August 27, 1972, pursuant to Rule 1002 of the Water Regulations. Rule 1002 provides that such Schedule may only be approved if its target completion

dates indicate that the project will be completed on or before the deadline dates set forth in the Regulations. Since the City's proposed schedule indicated that it would not be meeting the deadline of December 31, 1973 for secondary treatment, it was not approved by the Agency.

The Agency also points out that it will not be able to issue a permit to the City when the City submits its final plans and specifications because Rule 921 of the Water Regulations provides, in part, that no permit shall issue unless the applicant has an approved Project Completion Schedule pursuant to Rule 1002.

The Agency, in its recommendation, suggests that the City's petition for variance should also be interpreted as a request for a variance from Rules 921 and 1002 also. The Agency goes on to recommend that not granting a variance from those two Rules would serve no useful purpose and will only result in further delay of this needed facility. We agree.

We also find that the City has shown adequate proof to justify the granting of a variance from the December 31, 1973 deadline for secondary treatment imposed by Rule 404 (b) (i) of the Water Regulations. They have made diligent efforts to comply but have not been able to because of the complicated situation resulting from the regional plant idea. We will not, however, be able to grant the variance until the requested date of December 27, 1975 because of the one-year statutory limitation on variances. We will grant the variance for one year from the date of this opinion and order. At that time we will again look at the City's progress on their proposed schedule and determine if an extension of the variance is appropriate. Adherence to the schedule set out below will be an important factor in granting extensions of this variance.

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

ORDER

1. The City of East Moline is granted a variance from Rules 921 and 1002 of the Water Regulations.
2. The City is also granted a variance from Rule 404 (b) (i) until February 27, 1974 on the following conditions:
 - a. The City shall submit its plans and specifications for the general construction contract to the Agency by June 2, 1973.
 - b. The City shall receive bids for the general construction contract by September 8, 1973.

- c. The City shall begin construction by October 6, 1973.
- 3. Requests for extension of this variance shall be made at least 90 days prior to the expiration date.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 27th day of February, 1973 by a vote of 3 - 0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board

