

ILLINOIS POLLUTION CONTROL BOARD
August 12, 1976

CITY OF WATSEKA,)
)
 Petitioner,)
)
 V.) PCB 76-170
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on the variance petition filed June 11, 1976 by the City of Watseka seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. The Agency filed a Recommendation on July 23, 1976; no hearing was held in this matter.

Rule 602(d)(3) establishes a compliance date of December 31, 1975 for Rule 602(c), which requires in part that all combined sewer overflows shall be given sufficient treatment to prevent pollution or a violation of applicable water quality standards. While the City also seeks relief from the requirements of 602(c) relative to its treatment plant bypass, such relief is not necessary as bypass improvements are controlled by Rule 602(d)(1), hence Rule 409.

The City of Watseka is located in Iroquois County with an estimated population of 5500 persons. The City owns and operates a sewer system which is composed of 20 miles of combined sewers and 6 miles of sanitary sewers. The sewage treatment plant is a primary-secondary biological plant designed for 0.8 mgd, with an average dry weather flow of 0.6 mgd which contains no appreciable quantity of industrial waste. During periods of wet weather when the combined sewage flow exceeds 2.0 mgd, the excess is bypassed the plant to the Iroquois River, and when the flow in the sewer system is greatly increased, there are occasional sewer system overflows.

The City's NPDES Permit contains a schedule for bringing the combined sewer overflows into compliance and the schedule keys all dates to those after which grant funds have become available. The City has had a Step I grant application on file with the Agency since March 7, 1974, for correcting the sewer system overflow condition and has kept the application current to date. In January of 1976, the Agency advised the City that Step I State grant assistance was available for completion of facilities planning.

The City has proceeded with the preparation of an Infiltration/Inflow Analysis which is now complete and ready for submission to the Agency.

The City alleges that it has complied with all provisions of its NPDES Permit and has made capital improvements without grant funds in an effort to improve operations and discharge a better quality effluent, i.e., installation of monitoring facilities and chlorination equipment. The City further alleges that it will comply with the overflow treatment requirements as soon as grant funds become available but that it would suffer an arbitrary and unreasonable hardship if forced to proceed with the system improvements prior to obtaining assistance with grant funds.

The Board and the Agency have recognized the fact that many municipalities and sanitary districts throughout the State have not met and cannot presently meet the December 31, 1975 compliance date as set by Rule 602(d)(3). On December 22, 1975, the Agency filed an Amended Petition for Regulatory Change (R75-15) with the Board specifically requesting that the date for complying with Rule 602(d)(3) be extended, provided a grant application had been filed before December 31, 1975. Although the Board has not taken final action on this proposal, at its May 20, 1976 meeting, the Board authorized for publication a proposed final draft of the Rule Change which would adopt the substance of the Agency's amendatory proposal. The economic impact hearings have yet to be conducted in this matter.

In view of the foregoing, the Board is disposed to grant the City of Watseka the relief requested. We believe an arbitrary and unreasonable hardship would be placed on the City by requiring the massive capital outlays necessary for compliance without first allowing the City to obtain assistance from existing grant programs, and particularly so when the City would be precluded from any reimbursement from State/Federal grant funds if the City were to proceed in advance of a particular grant award (The Clinton Sanitary District, PCB 75-498; The Sanitary District of Elgin, PCB 75-501).

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER


1. The City of Watseka is granted variance from the compliance date of Rule 602(d)(3) as it applies to the treatment of combined sewer overflows required by Rule 602(c) of the Water Pollution Rules and Regulations. Such variance is granted until July 1, 1977, or until the Board takes final action in consideration of the Agency Regulatory Proposal (R75-15), whichever is earlier.

2. The City is required during this period to maintain optimum operating efficiency and convey as much combined sewer flow to its plant as is practicable.

3. This variance will immediately terminate if the City is offered a grant during this period and the City does not respond with appropriate action to bring it into compliance.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of August, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board