

ILLINOIS POLLUTION CONTROL BOARD
August 12, 1976

CITY OF JOLIET,)
)
 Petitioner,)
)
 v.) PCB 76-174
)
 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 17, 1976 by the City of Joliet seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. An Agency Recommendation was filed with the Board on July 22, 1976.

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.

The Agency and the Board have recognized the fact that many municipalities and sanitary districts throughout the State have not met and cannot presently meet the 602(d)(3) compliance date. On December 22, 1975, the Agency filed an Amended Petition for Regulatory Change (R75-15) with the Board specifically requesting the compliance date be extended, provided the discharger has applied for a grant and is diligently pursuing the grant program. 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 proposal. The economic impact hearings have yet to be conducted in this matter.

The City of Joliet owns and operates the East Side Wastewater Treatment Plant and all sewers tributary thereto. Since June of 1975, Joliet has a newly constructed West Side Treatment Plant also in operation. Since the collection system consists of combined and sanitary sewers which are subject to limit stormwater inflow, the City alleges occasional overflows of the combined sewers occurs at various points within the system. The City

alleges it presently has a NPDES Permit for the East Side Treatment Plant (No. 001) and all bypasses and overflows (Nos. 002-038) in the system. The operation of West Side Plant has eliminated overflows at points Nos. 003 and 005 and a variance is not needed for bypass No. 002 as that point is governed by Rule 409.

The City submits that it is proceeding with planning for compliance with Rule 602(d)(3) as rapidly as possible within the limits of federal regulations for construction grant assistance. The estimated cost of Facilities Planning alone is \$340,000. Because of the high cost of the planning, design and construction the City alleges present compliance, without federal grant assistance, would constitute an arbitrary and unreasonable hardship for its citizens.

The Agency, subject to some reservations, recommends that the variance be granted. It is their belief that Joliet would suffer an arbitrary and unreasonable hardship if required to immediately comply without grant assistance and that Joliet has applied for such a grant and is diligently pursuing the grant program. As part of the variance grant, the Agency believes that it would be appropriate for the Board to enter an abatement order.

As a result of the Agency investigation of this matter, five additional overflow points were discovered on the Bluff Street interceptor and the Agency alleges that blockages existing in this interceptor cause manholes on the sewer to surcharge and discharge wastewater directly to the Des Plaines River. The Agency further alleges that this interceptor has deteriorated to the point where it overflows even during periods of dry weather. The Agency believes that these overflow points are therefore readily distinguishable from the City's other overflow points which discharge only during periods of wet weather and that the variance should not be granted as to these overflow points.

In consideration of the foregoing, the Board believes it would be an unreasonable hardship for the City to immediately comply with the overflow treatment requirements, without grant assistance, and believes the City of Joliet is entitled to relief for overflow points Nos. 004, 006-038.

Because it was proper for the Agency to ask the Board to condition the grant of this variance upon the abatement of five overflows on the Bluff Street interceptor the Board will attempt to fashion a remedy for these pollution sources. A. E. Staley Mfg. Co. v. EPA, PCB 71-174, 2 PCB 521 (1971). These points overflow even during periods of dry weather and indicate a serious deficiency in the collection system which must be remedied as quickly as possible.

For this reason, the Board will require that the City submit an accelerated schedule for abatement of dry weather overflows from these points. While the Agency suggested that the Board enter an abatement order, the Board does not believe that such an order is appropriate, where as here, the municipality is diligently pursuing its grant program.

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

ORDER

1. The City of Joliet is granted variance from the compliance date of Rule 602(d)(3) as it applies to the treatment of combined sewer overflows for discharge points No. 004, 006-038. Such variance is granted until July 1, 1977, or until the Board takes final action in consideration of Regulatory Proposal R75-15, whichever is earlier, subject to the following conditions:

- a) During the period of this variance the City shall maintain optimum plant operating efficiency and convey as much combined sewer flow to its plants as is practicable.
- b) This variance will immediately terminate if the City is offered a State or Federal grant during this period and the City does not respond with appropriate action to bring the combined sewer system into compliance.
- c) The City of Joliet shall submit within 90 days of the date of this Order, a proposed schedule to the Board and the Agency containing an accelerated program for the abatement of the dry weather overflows from the five overflow points on the Bluff Street interceptor.

2. Within 35 days of the date of this Order, the City of Joliet shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and agreement to be bound to all terms and conditions of the variance. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 76-174, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

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
Christan L. Moffett, Clerk
Illinois Pollution Control Board