

ILLINOIS POLLUTION CONTROL BOARD  
August 18, 1977

ARTHUR RUBLOFF and ASSOCIATES, No. 1, )  
an Illinois limited Partnership, )  
 )  
Petitioner, )  
 )  
 )  
v. ) PCB 77-168  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Respondent. )

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

This matter comes before the Board upon a Petition for Variance from Rule 602(a) of Chapter 3: Water Pollution filed by Arthur Rubloff and Associates, No. 1 (Rubloff) on June 24, 1977. Rubloff waived hearing on this matter. The Environmental Protection Agency (Agency) filed its Agency Recommendation on July 25, 1977.

Rubloff is engaged in the construction of a 108 townhouse project located in Chicago, Cook County, Illinois. Sewer service for the townhouses is to be provided through construction of a combined sewer which will discharge into an existing combined sewer operated by the Metropolitan Sanitary District of Greater Chicago (MSDGC). Rubloff's application for a construction permit was denied by the Agency because of apparent lack of approval of the project by the City of Chicago and because construction of a combined sewer to serve this project would violate Rule 602(a). Granting a variance from Rule 602(a) would remove the Agency's second objection to the issuance of a construction permit.

Section 35 of the Environmental Protection Act provides for granting of a variance where compliance with any rule or regulation of the Board would impose an arbitrary and unreasonable hardship. Rubloff claims, and the Agency agrees, that such hardship exists here because construction of separate sewer systems would involve substantial expense yet would be without any beneficial effect to

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the environment since flows would discharge into the existing MSDGC combined sewer. The Agency, consistent with this belief, has filed a Petition for Regulatory Change which, if adopted, would obviate the need for a variance in the present case. Further, the Board has previously granted variances from Rule 602(a) in similar fact situations. Mary Ann Nowak, PCB 76-193; City of Calumet, PCB 76-318; Near North Development Corporation, PCB 77-78; Orchard and Vine Corporation, PCB 77-65. Ultimate compliance with Rule 602(a) will be achieved upon completion of the MSDGC Tunnel and Reservoir Project. The Board finds that an arbitrary and unreasonable hardship exists here, and that the benefits of granting a variance outweigh any harm to the environment.

The Board grants a variance from Rule 602(a) with regard to construction of a combined sewer to serve the 108 townhouse project, subject to the condition that Rubloff apply for and receive all necessary permits from the Agency.

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

ORDER

Arthur Rubloff and Associates is granted a variance from Rule 602(a) of Chapter 3: Water Pollution, with regard to construction of a combined sewer to serve the 108 townhouse project described in the Variance Petition submitted herein, subject to the following conditions:

1. Rubloff shall apply for and receive all necessary permits from the Agency.
2. Within 35 days of the date of this Order, Rubloff 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 77-168, 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 18<sup>th</sup> day of August, 1977 by a vote of 5-0.

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

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