

ILLINOIS POLLUTION CONTROL BOARD
May 15, 1980

CITIZENS CONCERNED FOR THE QUALITY)
OF LIFE IN LOCKPORT AREA,)
)
Complainant)
)
v.) PCB 79-28
)
CITY OF LOCKPORT,)
)
Respondent.)

MR. WILLIAM P. McSHERRY, JR., McSHERRY AND NUDO APPEARED FOR THE COMPLAINANT;

MR. JEFFREY C. FORT, MARTIN, CRAIG, CHESTER & SONNENSCHNEIN AND MR. RONALD CANEVA, LUZBETAK, ZUPANCIC & CANEVA APPEARED FOR THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Chairman Dumelle):

This enforcement action, filed with the Board on February 9, 1979, alleges violation of Rules 601(a) and 602(b) of Chapter 3: Water Pollution Rules and Regulation (Water Rules). On January 7, 1980, a hearing was held in which testimony from witnesses from both sides was heard.

Testimony from Complainant's witnesses indicates that sanitary sewer overflows occurring during rainstorms have been causing raw sewage to back up into the homes of citizens since 1967. Written narrative statements of citizens indicate that backups have been persistent, have occurred during periods of normal rainfall and have caused foul odors, unsanitary conditions, property damage and clean up expenses. The testimony and narrative statements also show that remedial attempts by the City have not solved the problem and that citizens have been forced to install and finance backup valves, overhead sewers, and sump pumps to alleviate the problem. (R.22, 23,29,49,58,67,68). The City of Lockport admits that overflows have occurred but believes it has made a good faith effort to stop overflows. (R.8).

Reports demonstrate that excessive inflow and infiltration have caused the system to overflow. (R242-43). Since 1969 the City has added a second sewage treatment plant (R.139), replaced sanitary sewer lines (R.140), and proposed bond referenda to fund improvements. (R.135-138,225,234).

In 1978, Lockport entered into an Annexation Agreement concerning the future site of a 400-residence and a 60-acre commercial development. The Agreement provides that three-fifths of the development can connect to the present sewer system before off-site improvements are required. Lockport and its experts contend that additional flow entering downstream from the present problem area will have a minimal impact on sewer overflows (R.195-198). The City also notes that it has eliminated many sources of inflow and infiltration; namely unsealed manholes and downspouts, and anticipates fewer overflow problems. Complainant contends that increased flow whether downstream or upstream will still cause overflows. The Board, however, concludes that a ban on new connections from the proposed development is not needed at this time.

The Board also dismisses the allegation that the City has violated Rule 601(a) of the Water Rules. The City's downspout ban, manhole replacement, and completion of Step 1 of the federal grant program demonstrates that the City has attempted to construct and operate facilities in a manner that "minimizes violations of applicable standards" despite the repeated overflows. The Board, however, does find that the City of Lockport has violated Rule 602(b) of the Water Rules which explicitly bans sanitary sewer overflows and excessive infiltration.

As was earlier noted, overflows have caused interference with the health, welfare and property of Lockport citizens. The Board has examined the factors bearing upon the reasonableness of the overflows and has determined that a penalty will not hasten compliance with Board rules and regulations. Money would be better spent pursuing immediate relief for citizens plagued by overflows. The Board orders that Lockport continue pursuing federal fundings and suggests that interim funding be pursued under Section 46 of the Environmental Protection Act.

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


ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The City of Lockport has violated Rule 602(b) of Chapter 3: Water Pollution Rules and Regulations.
2. The allegation of violation of Rule 601(a) of Chapter 3: Water Pollution is dismissed.
3. The City shall install 140 sealed manhole covers with frames as outlined in Respondent's Exhibit 18 by August 1, 1980.

4. The City shall maintain its ban on connection of roof leaders and downspouts into the sanitary sewer system until December 31, 1983.
5. The City shall complete Step 2 (design activities and submit a request for Step 3 (construction funds) by the dates required by the Illinois Environmental Protection Agency.
6. On June 2, 1980 the City shall submit its portion of the Facilities Plan to the Illinois Environmental Protection Agency and the Board. The Board will retain jurisdiction in this matter until a facilities plan is approved.
7. The City will implement the plan referred to in 6. As soon as Board approval of the facilities plan is given, the City will abate pollution.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of May, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board