

ILLINOIS POLLUTION CONTROL BOARD
August 12, 1976

GALESBURG SANITARY DISTRICT,)
)
 Petitioner,)
)
 v.) PCB 76-154
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on the variance petition filed May 17, 1976 by the Galesburg Sanitary District seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. An Agency Recommendation was filed with the Board on June 30, 1976 and the District filed a Response on July 21, 1976. An Amended Recommendation was filed on August 5, 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.

The Galesburg Sanitary District owns and operates the sewer system and two treatment plants servicing an area comprised primarily by the City of Galesburg. The majority of the sewer system is composed of separate storm and sanitary sewers, although portions of the sanitary sewer system receive direct storm water inflow. This inflow causes occasional overflows of combined sewers at 43 points in the system to the waters of Cedar Fork Creek. This overflow is estimated to be 138 million gallons per year.

The District has completed its Step I Facilities Plan relative to the treatment of combined sewer overflows and this plan is currently under Agency review. Other improvements are also being considered for the system with the total project cost estimated to be nearly \$14,750,000.00. The improvements needed to provide control of the overflow account for almost half of this amount. Because of the high cost of these improvements, the District alleges that it would suffer an arbitrary and unreasonable hardship if forced to comply without first obtaining Federal assistance.

The Agency has 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 until July 1, 1977, 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 District the relief requested. We believe an arbitrary and unreasonable hardship would be placed on the District by requiring the massive capital outlays necessary for compliance without first allowing the District to obtain assistance from existing grant programs, and particularly so when the District would be precluded from any reimbursement from State/Federal grant funds if the District 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).

The Agency suggests that the Board either enter an abatement Order or retain jurisdiction of this matter so that such an Order could be issued in the event the District's scheduled bonding referendum fails. Because the facts of this present matter indicate that the District is diligently following its compliance program, the Board does not believe that an abatement Order is presently required. In the event the referendum fails, the District can easily file a petition with the Board seeking the desired relief and this proceeding could be incorporated into that petition.

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

ORDER

1. The Galesburg Sanitary District is granted variance from the compliance date for the treatment of combined sewer overflows as established by Rule 602(d)(3) 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 Regulatory Proposal R75-15, whichever is earlier.

2. During the period of this variance the District shall maintain optimum plant operating efficiency and convey as much combined sewer flow to its plant as is practicable.

3. This variance will immediately terminate if the District is offered a State or Federal grant during this period and the District does not respond with appropriate action to bring the combined sewer system 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