

ILLINOIS POLLUTION CONTROL BOARD  
September 15, 1976

THE CITY OF DECATUR AND )  
THE SANITARY DISTRICT OF DECATUR, )  
 )  
Petitioner, )  
 )  
v. ) PCB 76-185  
 )  
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 24, 1976 by the City of Decatur and the Sanitary District of Decatur seeking relief from Rule 602(d)(3) of Chapter 3: Water Pollution Rules and Regulations. On March 11, 1976, the Board dismissed a prior petition from the Petitioners on the grounds that it was inadequate. The Agency filed a Recommendation on August 12, 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 City of Decatur owns and operates combined sewers that when built in the later part of the 19th century and the early part of this century, discharged directly to the closest stream. After the creation of the Sanitary District in 1917, the first District construction consisted of installing interceptor sewers to divert the dry weather flow of the combined sewers to the wastewater treatment plant which was also under construction. There are presently six overflow points on the collection system which discharge combined sewage during periods of wet weather to either Spring Creek or the Sangamon River.

The City and the District submit that they are diligently proceeding in their attempts to comply with the overflow treatment requirements. In March of 1976, the District was offered and accepted a Federal Step I Grant which assists in paying the costs of preparing a Facilities Plan. The District further submits that it will continue to timely take all pre-grant and post-grant actions as may be required by the grant program.

The Petitioners allege, that to require immediate compliance, without the use of existing grant funds and without the assistance of the Facilities Plan now being prepared, would impose an arbitrary and unreasonable hardship upon its citizens.

At the present time the District is in the final stages of completing an eleven million dollar expansion of its treatment plant. Petitioners allege that they have recently completed the most extensive sewer infiltration prevention program in this State by improving sewer facilities and by compelling property owners to make necessary repairs or disconnections. The City also has underway a thirty-two million dollar storm water construction program which includes improvements and separations in certain combined sewer areas.

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 were conducted on August 26, and September 1, 1976.

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 Petitioners by requiring the capital outlays necessary for compliance without first allowing the Petitioners to obtain assistance from existing grant programs, and particularly so when they would be precluded from any reimbursement from State/Federal grant funds if they 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

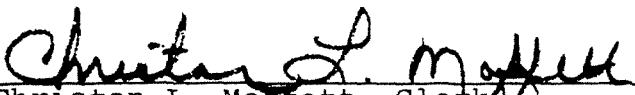
1. The City of Decatur and the Sanitary District of Decatur are granted variance from the compliance date for the treatment of combined sewer overflows as established by Rule 602(d)(3) of the Water Pollution Rules and Regulations. Such variance is granted until July 1, 1977, or until the Board takes final action in consideration of Regulatory Proposal R75-15, whichever is earlier.

2. During the period of this variance the Petitioners 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 Petitioners are offered a State or Federal grant during this period and they do 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 15<sup>th</sup> day of September, 1976 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board