ILLINOIS POLLUTION CONTROL BOARD
July 31, 1973

DANVILLE SANITARY DISTRICT	)	
v.	)	PCB 73-77
ENVIRONMENTAL PROTECTION AGENCY	)	

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

Petition was filed February 23, 1973 by the Danville Sanitary District ("District") for variance from Rules 404(c) and 404(f) and 602(d)3 of the Water Pollution Regulations, until August 1, 1976 and also requesting an order of the Board be issued requiring the District to abate all pollutional discharges from its present plant.

The Agency filed its recommendation on April 16, 1973 stating that the relief requested is from Rules 404(c), 404(f), 602(d)(1) and implicitly from Rules 921(d) and 1002. It recommended a grant as to Rule 921(d) and denial for the other requests unless certain proofs were made.

Public hearing was held in Danville on April 30 and May 1 of 1973.

On June 28 the Board repealed Rule 921(d). On July 19 the Board enacted Rule 409 which extends the deadline for the District from December 31, 1973 to December 31, 1974 for meeting the effluent standards of Rule 404(c). Thus the instant petition is moot with respect to these two Rules.

Rule 404(f) is the effluent standard where dilution ratios are less than 1:1. Since the low flow of the Vermilion River is given as 20.8 cfs (13.9 MGD) and the most recent average dry weather flows to the plant were 8.646 MGD and 8.934 MGD in February and March, 1973 respectively (District Ex. 16) it can be seen that the 1:1 ratio will not be breached for sometime. Thus any violation of Rule 404(f) is far off in the future and need not be considered in this proceeding.

Rules 602(d)(3) and 602(d)(1) are left for consideration. These are deadlines for storm water treatment and are respectively, December 31, 1975, and "the applicable date for improvement of treatment works" (which is now December 31, 1974). Taking even the

earliest of these two dates would still put the prospective violation beyond the 12-month variance grant power of the Board and these requests are thus premature. We are then left with Rule 1002 for consideration. Since nothing is now before us (because of mootness or prematurity) no variance is needed from the deadline dates for filing of a Project Completion Schedule.

The petition in this case was well drawn and helpful and the Agency's recommendation was thorough. Had it been necessary to decide this case upon its merits we would have commended the District upon its good faith efforts to determine its waste treatment problems and to correct them. We would urge that in future proceedings, the District (and, if possible, the Agency) perform biological samplings on the Vermilion River bottom to determine the effects of the suspended solids discharges from the sewage plant. This seems not to have been done.

Two matters remain. First, the District argues in its brief that the variance should be granted as a matter of law because without it the District could not ever get a Federal grant. We do not accept this argument for to do so would largely render this Board's judgments perfunctory in cases involving Federal grants. The entire Federal grant system is still evolving under the new Act passed October 18, 1972 with guidelines being newly issued and newly litigated and we think no one can really delineate at this time exactly the relationship between State actions and eligibility resulting therefrom for Federal grants. Furthermore there has been no showing in this case that failure to grant the variance is in fact holding up a Federal grant. If a genuine showing is made of this point we would consider it.

Second, the petitioner asks for a Board order to abate its pollutional discharges from its existing plant. Such an order would trigger Section 46 of the Environmental Protection Act and permit issuance of bonds by the District without referendum. We do not issue such an order at this time because of two reasons; prematurity and scope-of-the-project questions. We have found that the applicable deadline is 17 months off and so no pressing time problems would appear to be present. A genuine professional disagreement between the Agency and the District seems to exist on the necessity for carbon columns (R. 243). If carbon columns are not needed, then the total project cost is reduced $3,000,000. The District taxpayers, if their share works out to 20%, would be saved $600,000 plus the entire annual operating charge. We would suggest this engineering matter be worked out by the parties as soon as possible.

The variance is dismissed without prejudice as being moot or premature.

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 31st day of July, 1973 by a vote of 4-0.

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