

ILLINOIS POLLUTION CONTROL BOARD

January 24, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 71-25
)
 CITY OF MARION,)
)
 Respondent.)
)
 CITY OF MARION,)
)
 Petitioner,)
)
 v.) PCB 71-225
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

William J. Novick, Attorney for the City of Marion
Larry Eaton, Assistant Attorney General for the EPA

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

The Agency's Complaint (#71-25) charged the City of Marion with discharging inadequately treated sewage to a tributary of Crab Orchard Creek and missing some deadlines for construction of sewage plant improvements. The City's Petition for Variance (#71-225) requested a delay in compliance with the Regulations pending installation of the required improvements. On October 28, 1971, the Illinois Pollution Control Board ordered the City of Marion to comply by September 30, 1972 with the treatment and effluent standards of SWB-14 which had been adopted by the former Sanitary Water Board.

The City of Marion sought administrative review in the Appellate Court of Illinois, Fifth Appellate District. Subsequently, on March 7, 1972 this Board adopted Water Pollution Regulations, which in some respects, vary from requirements of the former Sanitary Water Board. Cities over 10,000 in population were granted to December 31, 1973 to meet the Water Quality

Standards. The City of Marion contended that it would be a discrimination against the City to require it to meet the Standards by September 30, 1972 when all other municipalities over 10,000 in population would have until December 31, 1973 to meet the Water Quality Standards.

The Appellate Court found that the City of Marion should have the benefit of the changes in the law which had occurred while the case was pending on review. The Court said:

"Justice requires therefore that the City of Marion be entitled to all the terms and provisions of the new Regulations. The record, having been compiled previous to the promulgation of the new Regulations, is inadequate to fully establish the nature of the appropriate order that should be entered in this case..."

The case was remanded with directions requiring this Board to conduct further hearings and determine in what manner the new Regulations applied to the City of Marion and to determine what steps, if any, are necessary for the City of Marion to obtain compliance with the new Regulations. This Board is to strike that portion of its Order relating to future compliance dates and substitute an appropriate Order requiring compliance with the current Regulations.

In compliance with the Appellate Court Order we order the following:

1. A hearing shall be conducted at an early date to determine whether or not the City of Marion is in compliance with, or in violation of, the new Regulations; to determine the manner in which the new Regulations apply to the City of Marion; and to determine what steps, if any, are necessary for the City of Marion to obtain compliance with said Regulations.
2. The Board Orders of October 28, 1971 and March 14, 1972 are modified in the following respects: Paragraphs 1, 2, 3, 4, 5, 6, 7 and 9 are stricken.
3. Appropriate orders will be made following the hearing which has been ordered regarding compliance with the current Regulations.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 24th day of January, 1974 by a vote of 5 to 0.

Christan L. Moffett