

ILLINOIS POLLUTION CONTROL BOARD
March 6, 1980

TOWN OF NORMAL,)
)
 Petitioner,)
) PCB 79-204
 v.)
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

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

On October 29, 1979, Petitioner filed its amended petition for variance. The recommendation of the Illinois Environmental Protection Agency (Agency) was received on December 7, 1979. Hearing was held on January 28, 1980, with nineteen affected citizen homeowners, and one citizen pastor, testifying to basement floodings and the deteriorated condition of Sugar Creek (Creek) running through the Town of Normal and the City of Bloomington in McLean County. A written objection to the variance petition as it would allow dumping sewage into the Creek was received on October 21, 1979 from Mr. Craig Greenwood, Attorney for the Westside Improvement Association, a division of the Association of Commerce and Industry of McLean County.

Petitioner seeks a variance from Rule 602(b) of the Board's water regulations, which prohibits sanitary sewer overflows, and from §12(a) of the Illinois Environmental Protection Act (Act) prohibiting discharges which cause water pollution or which violate the Board's regulations or the Act. Because this petition is determined with respect to Rule 602(b), relief with respect to §12(a) becomes immaterial. The Board does not favor granting variances from sections of the Act.

Petitioner seeks a four-year variance to construct nine relief sump pump stations to transport manhole overflow to existing storm sewers, and then to the west branch of the Creek. This is an interim measure designed to provide temporary relief until it can complete its primary corrective plan. This primary plan would eliminate excessive inflow and infiltration to the sanitary sewers servicing the four major areas affected by disconnecting some 971 improperly installed footing tiles and installing sump pumps.

In the early 1950's, Petitioner adopted a Sewer Use Ordinance prohibiting infiltration from footing tiles, down-spouts, area drains and storm sewers. After completing a 1974 study Petitioner passed a "stronger" ordinance requiring that illegal connections be corrected by the homeowners themselves. A homeowner group sued Petitioner, maintaining that this burden should be borne by either the developers or the previous homeowners. The outcome of this litigation is not cited. Nearly all home basements both within Petitioner's boundaries and within the City of Bloomington require footing tiles due to high ground water levels and flat ground slopes.

In Petitioner's boundaries, 68% of the sanitary sewer lines exist separately from the storm lines; in Bloomington, only 40% exist separately. The Bloomington and Normal Sanitary District (District) operates the sewage treatment plant, located in Bloomington, and an interceptor system for transport to the plant. The District also "maintains improved waterway channels of Sugar Creek and its major tributaries within the urban areas inside [Normal and Bloomington]." (Original Petition, p.1). A large portion of Bloomington's interceptors is subject to overflow at nine points.

A threshold question is whether the Board can allow Petitioner variance to permit the sump pump stations to add manhole overflow discharge to existing storm sewers. Because the manhole overflow could subject both the District and Bloomington to violations of §12 of the Act, alone or in combination with Petitioner, the Board orders that the District and Bloomington be noticed by certified mail of the final order in this matter.

It is certain that the interim measures Petitioner will take will add raw sewage to the Creek. However, as the citizen witnesses make clear, the Creek is already an environmental sore, with the proliferation of 18-inch rats; the sights of toilet paper and sanitary napkins in trees and bushes; the stink of sewage; the dead birds, fish, and rabbits; the mosquitoes; the erosion of adjacent gardens and farmland; and the destruction of fences, etc. (R.62-66, 92-6, 103, 114-124). The Board finds that granting this variance will not significantly worsen these conditions.

The additional BOD which will be discharged per backup is only 253 pounds and will be discharged during heavy rains so that the sewage in the creek will be relatively diluted. The BOD concentration during backups is 101.9 mg/l. Similarly, the additional suspended solids which will be discharged per backup is only 666 pounds. The TSS concentration during backups is 112.3 mg/l. Taken with the fact that overflow occurrences will result in an additional 2.377 MGD flow in the north branch of the Creek, these additional pollutant amount should have no significant adverse environmental impact.

The twenty citizens did not only testify as to the conditions of the Creek; there was much testimony about basement flooding. The raw sewage enters like a "geyser" (R.50) and causes in some cases thousands of dollars' damage to carpeting, furniture, and appliances. (R.37-39, 50-61, 111, 117). One homeowner has found dead rats in her basement. (R.101). The total, per flooding, cost to homeowners is about \$472,000; with triannual occurrences, the total annual cost becomes over one million dollars. (R.35).

The Board finds that the interests of the homeowners are more direct, more urgent and more important than the insignificant increase in pollution of the Creek which will result from granting this variance. This finding is highlighted by the fact that Petitioner states that at least on one occasion firemen had to be called to shut off utility mains to prevent explosions occurring from the short-circuiting caused by the basement flooding. "There is also a real danger of persons being injured or killed by electrical shock if they attempt to shut off the power themselves." (Original Petition, p.5). Such potential danger to life during flooding episodes compels the granting of this variance pending the completion of the permanent measures of correcting the illegal footing tile connections and installing additional sump pumps.

Petitioner is to proceed with its permanent plan as expeditiously as possible, and to have it in operation no later than April 1, 1984, regardless of pending litigation regarding who is financially responsible for correcting the improper footing tile connections, etc.

This Opinion constitutes the findings of fact and conclusion of law in his matter.

ORDER

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

1. The City of Bloomington and the Bloomington and Normal Sanitary District be sent a copy of this order by certified mail.
2. The Town of Normal be granted variance from Rule 602(b) of the Board's water regulations on the following conditions:
 - a. The variance shall be until April 1, 1984 or until Petitioner's plan to correct improper footing tile connections and install sump pumps is completed, whichever first occurs;

b. On or before the termination of the variance the relief sump pump stations shall be removed;

c. The Town of Normal shall report to the Illinois Environmental Protection Agency, Variance Unit, Department of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706, in writing monthly as to all steps taken, whether or not pursuant to this variance, to eliminate the possibility of basement flooding caused by sewage backups and to minimize the dangers to health and life resulting therefrom.

3. The Town of Normal shall execute a certification of acceptance of this variance and submit it to the Illinois Environmental Protection Agency at the address above.

(We), _____ having read and understanding the Order of the Illinois Pollution Control in PCB 79-204, hereby accept said Order and agree to be by all of the terms and conditions thereof.

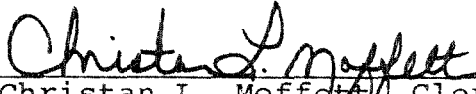
SIGNED _____

TITLE _____

DATE _____

Mr. Dumelle concurs.
Mrs. Anderson abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6th day of March, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board