

ILLINOIS POLLUTION CONTROL BOARD  
October 25, 1984

CITY OF PARK RIDGE, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 84-140  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by J. Anderson):

In response to the Board's October 12, 1984 Order in this matter the City of Park Ridge submitted supplemental information on October 23, 1984 regarding its variance petition. The Illinois Environmental Protection Agency (Agency) filed a recommendation that variance be granted, subject to certain conditions. Unfortunately, neither document supplies sufficient information for the Board to make a judgement on the merits.

First, the Board cannot determine whether variance is necessary. Park Ridge states that it "was advised by Illinois EPA that a variance would be required." The Agency may be correct, but the present record includes insufficient information for the Board to make such a determination. The Agency does note that "it is unclear whether Petitioner's existing system is in non-compliance." If the system is presently in the grant process, does the exemption contained in 35 Ill. Adm. Code, 306.306(d)(1,2,3,) apply to excuse any present non-compliance? If the existing system is, in fact, in compliance, the City must explain how the act of raising the outfall elevation would result in non-compliance necessitating variance relief. The Board cannot simply presume that such relief is necessary. Therefore, information sufficient to prove the necessity of variance is required.

Second, as the Board pointed out in its September 20, 1984 Order, the question of ultimate compliance is at issue. In response to that Order, Park Ridge indicated that ultimate compliance would be achieved sometime between 1995 and 2000 when the City's discharge will purportedly be connected to the Tunnel and Reservoir Project. The Agency accepted that estimate. The Board's authority to grant variance relief is limited to five years (with possible extensions), and compliance is expected no earlier than 11 to 16 years in the future. The Board notes that procedures have been established under 35 Ill. Adm. Code 306,

Subpart D which allow for exceptions from the combined sewer overflow rules which are not limited in duration and which may well be a more appropriate mechanism for obtaining the desired relief, if such relief is, in fact, necessary. In such case the City should file a petition pursuant to those rules to seek longer term relief.

Third, as the Agency points out, the City still has not presented "any data on the quality of effluent discharged" and only "a very scanty analysis of the environmental impact." While the City argues that there will be little change in the impact from the present discharge, the Board is without any information as to the impact of the present discharge.

For all of these reasons the Board cannot reach a conclusion on the merits based upon the present record and is left with only two alternatives: to dismiss the proceeding or to attempt to obtain the relevant information. The Board chooses the latter course, and since requests for further written information have proven largely futile, the Board will order this matter to proceed to hearing at which the Board expects all the issues raised by the Board to be fully addressed. The Board again stresses its concern over the delay involved in proceeding toward a remedy for the basement sewer back-ups, but without adequate information before it, it cannot grant the requested relief.

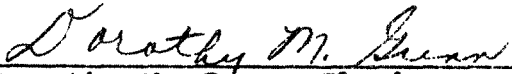
Finally, the Board notes that the remaining issues which have not been adequately discussed are, generally, legal and environmental rather than engineering issues. The City must provide sufficient information to establish that the variance mechanism is the appropriate one to obtain the requested relief (or choose an alternative mechanism) and that any adverse environmental impacts are heavily outweighed by other considerations.

Therefore, the Board orders that hearing be scheduled within 15 days and held within 45 days of the date of this Order.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25<sup>th</sup> day of October, 1984 by a vote of 5-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board