

ILLINOIS POLLUTION CONTROL BOARD
February 6, 1986

THE CITY OF HERRIN,)
)
 Petitioner,)
)
 v.) PCB 85-147
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board upon the October 7, 1985 filing of a variance petition by the City of Herrin (City) requesting a two and one half year variance from 35 Ill. Adm. Code 309.241 to permit a sewer extension to 83 homes in the Sunnyside subdivision. The Board on October 10, 1985 found the petition deficient and ordered that more information be submitted. The City filed an amended petition on November 20, 1985. The Illinois Environmental Protection Agency (Agency) requested more information on October 29, 1985 which was received from the City on December 12, 1985. The Agency filed its recommendation to grant on January 14, 1986 twenty-one days late, which the Board accepted on January 23, 1986. Hearing was waived by the City and none was held.

On or about July 25, 1980 the City's wastewater treatment plant (WWTP) was placed on restricted status for exceeding effluent limitations. The City requests a variance to allow not only the sewer extension to the homes, but to allow subsequent connection of the 83 homes in Sunnyside 1st, 2nd, and 3rd Additions which have failing septic systems (Amended Pet. at 1) as identified by maps appended to the original petition. The City would like to connect 15 additional homes to the proposed extension. These 15 homes currently have functioning septic systems. In all, 98 homes would add 24,200 GPD (0.024 MGD) of wastewater to the WWTP influent. If one assumes that the water saving devices for new connections ordered by the Board in a prior proceeding and required by the City via ordinance are effective, the wastewater input of the 98 homes would amount to 17,600 GPD (0.017 MGD).

The Franklin and Williamson Bi-County Health Department, based on its own survey, has concluded that a very "unhealthy situation" exists in the area. A total of 66 of the 98 homes were surveyed. Of the 66 homes, 56 discharged untreated wastewater to drainage ditches while others experienced sewage seeping to the ground surface (May 23, 1985 Health Dept. letter). Addition of this area's wastewater to the WWTP is

estimated to increase the influent BOD/TSS by 4 mg/l and 2 mg/l, respectively, and the effluent BOD by 1.5 mg/l (Attach. A to Agency Rec.). The Board notes that if this representation is true, the current influent to the WWTP must contain a very low BOD loading.

The City's WWTP, owned and operated by the City, consists of an aerated grit chamber, comminutor, dual primary clarifiers, trickling filter, dual secondary clarifiers, anaerobic digestion and effluent chlorination. The plant has a design average flow of 1.2 million gallons per day (MGD) and discharges to an unnamed tributary of Hurricane Creek, a tributary to the Big Muddy River.

The Agency states that the WWTP was built in the 1930's. The Board takes notice of its Opinion in City of Herrin, et al v. IEPA (PCB 83-169 April 5, 1984) wherein it is stated that the WWTP was constructed in 1950 while the sewer system was built in 1938 and modified in 1964.

The City's WWTP currently discharges pursuant to NPDES Permit No. IL0029165. Interim limits, effective until July 1, 1988 are 20 mg/l BOD, 30 day average, 45 mg/l TSS 30 day average, allowable pH of 6-9, 0.75 mg/l chlorine residual, and a daily maximum of 400 fecal coliform per 100 ml. The current average values for these effluent parameters are 16 mg/l BOD, 35 mg/l TSS, 7.2 pH, and 0.3 mg/l chlorine residual (Petition at 2). The WWTP is meeting the interim limits.

On July 1, 1988 the final effluent limits of 10 mg/l BOD, 12 mg/l TSS, allowable pH of 6-9, 0.75 mg/l chlorine residual, 400 fecal coliform per 100 ml will take effect as will the ammonia nitrogen limits of 1.5 mg/l during April through October and 4.0 mg/l during November through March.

The City plans to come into compliance by major renovations and additions to its WWTP, including primary settling tanks, trickling filters, final settling tanks, and effluent chlorination facilities. The plan also includes effluent pumping facilities and a forcemain to pump the effluent to the new discharge point, the Big Muddy River. The City would then have to meet 20/25 mg/l BOD and TSS effluent limits, respectively, rather than the "final" 10/12.

The City has committed itself through its revised Municipal Compliance Plan to the following schedule in which the Agency concurs:

Complete design	May 1986
Secure financing	August 1986
Start Construction	November 1986
Complete Construction	April 1988
Complete Start-Up	May 1988

The capital cost for compliance will be about \$4,035,000 with annual operating and maintenance costs of \$280,000.

The present situation is unacceptable. Untreated sewage is being discharged to ditches in a residential area and spread by wet weather flow. The Agency recommends the grant of variance to allow immediate connection of only 83 of the 98 homes. In addition, the Agency suggests connection of one or more of the other 15 homes (identified in the petition as currently having effective sewer systems) upon City certification to the Agency that the sewer systems at one or more of these homes has subsequently failed. The Board believes that the sewage from the 15 homes would have minor impact on the WWTP, even when combined with that of the 83 homes. Any grant of variance should allow for the connection of all 98 homes. To wait for septic system failure at the 15 homes would be to allow future health problems. However, upon grant of variance, the City should consider phasing in connections to these 15 homes to minimize any impact on the WWTP or environment.

The grant of variance would allow the removal of the untreated sewage to the WWTP. Sending the sewage from the homes to the WWTP for at least partial treatment would eliminate an unhealthy situation. The expected minimal negative impact on the WWTP is preferable to the status quo.

As an alternative to a sewer extension, individual homeowners would need to replace their own septic systems at a cost between \$3,500 - \$5,000 each which includes a sand filter system with chlorination and an effluent pump (Pet. at 8). The figure does not include necessary area drainage ditch modification. The overall cost to citizens would be \$286,350 to \$419,150 while the City proposal for extension is \$349,700. Because the amounts are comparable and the City received a grant from the Illinois Department of Commerce and Community Affairs in the amount of \$200,000, the City decided to pursue this variance proceeding. While the City does not say in so many words that it or the homeowners would suffer an arbitrary or unreasonable hardship were the variance denied, it does in substance offer like reasons:

- 1) grant of variance would eliminate a health hazard (Pet. at 9);
- 2) denial of variance would cause the loss of the \$200,000 grant (Id.); and
- 3) any negative effect the added wastewater would have on the WWTP is minimal and would be only for the short term of the variance (Pet. at 6).

Therefore, the Board finds that immediate compliance with 35 Ill. Adm. Code 309.241 would impose an arbitrary or unreasonable hardship. The Board hereby grants the City a variance from 35 Ill. Adm. Code 309.241 subject to conditions, none of which have been objected to. The period of variance

will expire on February 6, 1991 or upon a release from restricted status, whichever is first.

This concludes the Board's findings of fact and conclusions of law in this matter.

ORDER

The City of Herrin is granted a variance from 35 Ill. Adm. Code 309.241 to allow the Agency to issue construction and operating permits for the extension of a sanitary sewer to the area known as Sunnyside 1st, 2nd, and 3rd Additions, subject to the following conditions:

1. This variance shall begin on the date of this Order and expire February 6, 1991 or upon the City obtaining a release from Restricted Status, whichever occurs first.
2. This variance applies to the extension of a sewer main to the Sunnyside area to which the City may allow the connection of the 98 housing units identified in Attachment A to the Agency Recommendation.
3. The City agrees not to make a service connection or offer to make a service connection to any land presently vacant in the Sunnyside area.
4. During the term of this variance the City shall operate its wastewater treatment plant as optimally as possible so as to minimize any adverse environmental impact.
5. The City shall implement its Municipal Compliance Plan according to the following schedule:

Complete Design	5/86
Secure Financing	8/86
Start Construction	11/86
Complete Construction	4/88
Complete Start-Up	5/88

6. The City shall execute and forward to James C. Frost, Illinois Environmental Protection Agency, Compliance Assurance Section, Division of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706, and to the Pollution Control Board within twenty-eight days after the date of the Board Order herein a Certificate of Acceptance and Agreement to be bound to all the terms and conditions of this Variance, the form of said Certificate to be as follows:

CERTIFICATION

Petitioner, the City of Herrin, an Illinois Municipal Corporation, has received and understands the Order of the

Illinois Pollution Control Board in PCB 85-147 and hereby accepts said Order and agrees to be bound to all of the terms and conditions thereof.

Petitioner

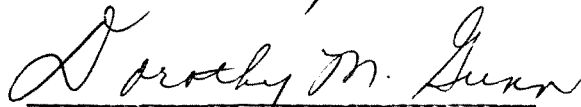
By: _____
Authorized Agent

Date

Title

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6th day of February, 1986 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board