

ILLINOIS POLLUTION CONTROL BOARD
June 9, 1977

ELMER and MARIAN SCHLEMMER,)
)
) Petitioners,)
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)
) v.) PCB 77-3
)
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) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter comes before the Board on a Petition for Variance filed by the Petitioners on January 3, 1977. On January 6, 1977 the Board found the Petition inadequate and ordered Additional Information be provided. On February 8, 1977 an Amended Petition for Variance was filed in response to the Board's Order. This Amended Petition was further amended in a letter to the Board from the Petitioner which was filed on March 25, 1977. The variance is requested to allow sewer service to be provided to thirteen lots owned by Petitioners in the Village of Dupo. Dupo was placed on Restricted Status by the Agency on February 6, 1976, and Petitioner is seeking a variance from Rule 962(a) of Chapter 3: Water Pollution of the Board's Rules and Regulations. On April 7, 1977 the Agency filed its Recommendation that the variance be granted for all thirteen lots.

The complete record in PCB 76-63 was stipulated into this proceeding because it concerned these same Petitioners in a prior variance proceeding involving this same subdivision.

Petitioners have demonstrated hardship in that they have shown additional mortgage expenses and construction delays as a result of the Agency-imposed Restricted Status on the Village of Dupo. The Agency's Response confirms the Petitioners' claim that the Village of Dupo is partly to blame for the Petitioners' plight by applying for a new permit instead of seeking an extension of its present sewer permit.

The latest projected completion date for the Village of Dupo's improved sewage treatment plant is August 1978. Granting the Petitioners' variance request would not affect this date. No significant additional environmental harm should be expected from the connection of Petitioners' thirteen lots because of the size and flow of the Mississippi River, which is the receiving stream for the Village's wastewater.

Denial of a variance for the Petitioners' thirteen lots would constitute an arbitrary and unreasonable hardship.


This Opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

Petitioners Elmer and Marian Schlemmer are hereby granted a variance from Rule 962(a) of Chapter 3: Water Pollution of the Board's Rules and Regulations to allow the connection of Petitioners' thirteen lots in the Schlemmer Subdivision to the Village of Dupo's sewer system.

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 9th day of June, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board