

ILLINOIS POLLUTION CONTROL BOARD  
December 2, 1976

ADELLA VALLERIUS, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 76-243  
 )  
 ) ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 ) Respondent. )

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

This matter is before the Board on a Petition for Variance filed on September 29, 1976 by Mrs. Adella Vallerius. The Petition seeks a variance from Rule 962(a) of Chapter 3: Water Pollution, of this Board's Rules and Regulations. An Objection to Petition for Variance and Motion for Hearing was filed by Respondent Environmental Protection Agency (Agency) on October 12, 1976. On October 14, 1976, the Board set the matter for hearing.

On November 3, 1976 the Agency filed a Motion for Leave to Withdraw its Objection, and a Motion for Decision Without Hearing. Those Motions were granted by the Board. The Agency's Recommendation was filed concurrently with its Motion for Decision Without Hearing.

The subject matter of this case is a motel, service station, and restaurant located at the intersection of Illinois Route 138 and U. S. Interstate 55, in Mt. Olive, Macoupin County, called the Sunset Inn. The motel has 15 units, the restaurant seats 85 persons, and the service station has four gas pumps. Petitioner estimates that the effluent from the entire facility amounts to 5,150 gallons per day (gpd), for a hydraulic population equivalent (PE) of 51.5. PE loadings for BOD<sub>5</sub> and suspended solids (SS) have not been determined, but tests by the Agency in a roadside ditch currently receiving the Sunset Inn's effluent indicate the following:

BOD <sub>5</sub>	150 mg/l
SS	110 mg/l
Ammonia-N	54 mg/l
pH	7.5
Fecal Col.	110,000/100 ml

That effluent is presently discharged into the roadside ditch after simple solid separation in a septic tank system; the septic tank does not have a lateral system, but instead discharges directly to the ditch. As a result of a percolation test, it has been determined that the soil in the area of Mrs. Vallerius' facility is unsuitable for a tile field.

After letters from both the Agency and the Illinois Department of Public Health to the effect that this illegal discharge to the roadside ditch must be eliminated, Mrs. Vallerius was faced with three choices:

1. construction of a separate sewage treatment plant, designed to meet a 4 mg/l BOD<sub>5</sub> limitation, and a 5 mg/l SS limitation;
2. connection by force main to the north sewage treatment plant of the City of Mt. Olive, Illinois;
3. cessation of operations.

Mrs. Vallerius contends, and the Agency in its Recommendation agrees, that the construction of a separate sewage treatment plant for the Sunset Inn would be economically impractical and would constitute a hardship upon Mrs. Vallerius. The connection to Mt. Olive, even though economically reasonable, nonetheless presents problems. Mt. Olive is presently on Agency-imposed restricted status, as a result of inadequate treatment at both its north and south sewage treatment plants. There can be no question of the fact that Mt. Olive's north sewage treatment plant is totally inadequate. See, e.g., EPA v. City of Mt. Olive, PCB 74-431 (Aug. 14, 1975); see also, City of Mt. Olive v. EPA, PCB 74-183 (May 23, 1974) (Variance Petition dismissed without prejudice for inadequacy). Because the many problems at Mt. Olive have already been discussed, they will not be repeated here. We will only note that there is a possibility that certain problems are continuing; the Agency's Recommendation indicates that, at its request, the Attorney General on October 4, 1976 filed an injunction action with the Circuit Court of Macoupin County, Illinois to enforce the Board's Order in PCB 74-431.

Mt. Olive is included, however, in the southeast Macoupin County Facilities Planning Area. The City of Staunton, designated as "Lead Agency" of the planning area, was awarded a Step I state grant on April 14, 1976, for the development of service areas. The Agency has determined (Rec., ¶6) that Mt. Olive will be one of the six facility planning areas, and has been advised that it will have to submit a plan of study. As grant funding proceeds, the existing problems with the north sewage treatment plant of the City of Mt. Olive should be abated.

Pending such grant funding, the Agency pleads that the denial of this Variance, or a requirement that a separate sewage treatment plant be constructed for the Sunset Inn, would be contrary to the regionalization concept for that area. Based on that fact, and on the hardship which the Agency agrees is present in this case, the Agency recommends that the variance be granted. The Agency notes that while the effluent downstream of Mt. Olive's north sewage treatment plant causes semi-polluted conditions, this alternative poses less pollution potential than the present discharge of the Sunset Inn's raw sewage after simple septic tank separation.

Balancing this fact, along with the imminent grant funding of Mt. Olive to upgrade sewage treatment facilities, against the hardship involved in requiring construction of separate facilities for the Sunset Inn, we find that a Variance grant is warranted.

We shall, however, condition our grant of this variance upon an agreement by Mrs. Vallerius that the Sunset Inn complex not be expanded until such time as the Mt. Olive north sewage treatment plant is removed from the Agency's restricted status.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Petitioner Adella Vallerius be granted a variance from Rule 962(a) of Chapter 3: Water Pollution, of this Board's Rules and Regulations, to allow the connection of the Sunset Inn complex, in Mt. Olive, Illinois, to the Mt. Olive north sewage treatment plant by means of sewer extensions and force mains, as described in the Petition herein. Such variance grant is conditioned upon:

a. Said Sunset Inn complex shall not be expanded until such time as the Mt. Olive north sewage treatment plant is removed from the Environmental Protection Agency's restricted status list, pursuant to Rule 604 of Chapter 3: Water Pollution;

b. Petitioner shall, within twenty-eight (28) days of the date of this Order, execute and forward to the Environmental Protection Agency, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois, 62706, a Certificate of Acceptance in the following form:

I, (We), \_\_\_\_\_ having read the Order of the Illinois Pollution Control Board in case No. PCB 76-243, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 2<sup>ND</sup> day of December, 1976, by a vote of 40.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board