

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

VILLAGE OF RIVERTON,)
)
 Petitioner,)
)
 v.) PCB 80-44
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION OF THE BOARD (by I. Goodman):

This Opinion supports the Board Order entered herein on June 12, 1980.

On March 17, 1980 the Village of Riverton (Village) filed this petition for variance from Rule 962(a) of Chapter 3: Water Pollution of the Board's regulations. Hearing was waived in this matter. The Illinois Environmental Protection Agency (Agency) has recommended grant of the proposed variance.

The subject of this variance petition is a proposed 300-foot, 8-inch sewer with two service extensions and two manholes which will extend northward of the intersection of Spaulding and 5th Streets in the Village of Riverton, Illinois. The sewerage system to which this proposed sewer extension would be connected is presently on restricted status. Although the Village is aware that the Agency could not permit connection of the proposed extension to a system placed under restricted status, it nevertheless wishes to build the sewer at this time so that it might subsequently construct an overlying roadway.

The Village applied to the Agency for a construct-only permit. The Agency denied the construct-only permit application pursuant to the Agency's WPC-5 Guidelines. The Agency envisions, quite logically, that a construct-only permit should be issued only in the event that the facility to be constructed would shortly be in a position to be hooked on to the system, i.e., that the restricted status will have been lifted.

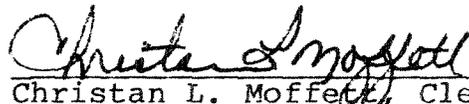
The situation presented by this petition is somewhat unique. The Village has no intention of attempting to hook its proposed sewer extension to the existing system at this time. It merely wishes to save the cost of tearing up and replacing a roadway which would be necessary should they construct the sewer extension at some time after the restricted status has been lifted. Essentially all the Village wants to do is lay down, but not connect, some sewer pipe. Unfortunately, neither the restricted status regulations

nor the Agency's rules clearly address such a situation. There is some disagreement between the Agency and the Board as to exactly what relief Riverton has requested or, indeed, needs. The Board is of the opinion that this petition is more in the nature of a permit denial review, but in order to calm this tempest in a teapot the Board shall construe the petition as a petition for variance and will waive any procedural defects that may be involved.

Since it is obvious that no environmental harm can accrue from an unconnected section of sewer, and since the Village has shown that construction of the sewer is a reasonable and cost-saving procedure, the Board will grant the requested variance. To alleviate one of the problems that the Agency anticipated when it developed the WPC-5 Guidelines, the problem of illicit "midnight connections", the Board will condition the variance upon an agreement by the Village and its officers that they will certify to the Agency in writing whether any sewage whatsoever has been discharged into the sewer, such certification to be made at six-month intervals.

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 10th day of July, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board