

ILLINOIS POLLUTION CONTROL BOARD
November 10, 1976

ARLAN R. JOHNSON,)
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 Petitioner,)
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)
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 v.) PCB 76-176
)
)
 ENVIRONMENTAL PROTECTION AGENCY)
)
 Respondent.)

OPINION OF THE BOARD (by Mr. Dumelle):

This matter comes before the Board on a Petition for Variance filed on June 17, 1976 by Mr. Arlan R. Johnson (Petitioner). Petitioner seeks variance to construct an extension of an 8-inch sanitary sewer to hook up a new home owned by Mr. and Mrs. Dale Bailliez onto the Hanna City, Illinois sewage treatment system. The variance is necessary due to the fact that the Hanna City plant has been on Agency restricted status since early in 1974.

The Agency filed its Recommendation on October 14, 1976 after the Petition had been amended by additional information on August 2, 1976. No hearing has been held in this matter. The Agency Recommends that the instant Petition be denied.

The Board has reviewed the information submitted, including the letter filed by Mr. and Mrs. Bailliez on October 20, 1976 and finds that compliance with Rule 962(a) of the Board's Water Regulations would place upon Mr. and Mrs. Bailliez an arbitrary or unreasonable hardship. Order was entered October 28, 1976.

In this case the hardship upon Mr. Johnson has been primarily self-imposed by building homes in an area under restricted status since early 1974. Construction was not even begun until July 26, 1976.

The Petition states that the Hanna City Sewage Treatment Plant should be rehabilitated by December of 1977. At that time it is presumed that the current restricted status will be lifted. The hardship, then, upon which this variance was requested is a delayed

hook-up. Mr. Johnson has not demonstrated that this hardship upon himself is either arbitrary or unreasonable when weighed against the necessity of maintaining the integrity of a restricted status. However, the Board does find that an unreasonable hardship would result to the Bailliez family if this variance were denied. Denial of a variance would force Mr. and Mrs. Bailliez to spend up to \$2,000.00 for a septic tank or holding tank to act as a temporary measure until the restricted status is lifted. Further, Mr. and Mrs. Bailliez have already sold their present home and may have to vacate in early November. In finding an unreasonable hardship to exist in this case, the Board is acting upon the particular facts and circumstances presented by this cause. The Agency has chosen not to rebut any of the statement made in the Bailliez letter filed October 20, 1976. Further, the Board is not aware of any facts which require the conclusion that the self-imposed nature of Mr. Johnson's hardship must necessarily be imputed to Mr. and Mrs. Bailliez. To do so the Board would have to assume that Mr. and Mrs. Bailliez were fully aware of the fact that they were taking the risk of not having a home to live in until 1978 or having to pay \$2,000.00 (two months income) for a system which will be abandoned in 1978.

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 10th day of November, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board