

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1979

CITY OF MONMOUTH,)
)
 Petitioner,)
)
 v.) PCB 79-36
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board on a variance petition filed by the City of Monmouth (Monmouth) seeking relief from Chapter 3, Board Rule 962(a). Petitioner seeks to extend sewer mains to provide service to include existing homes inside the city which presently use septic tanks and future homes to be built in the area to be served. The Environmental Protection Agency (Agency) recommended that the variance be granted with conditions. Petitioner has waived its right to a hearing and filed no response to Agency's recommendation. This Opinion is based on the facts alleged in the petition and the Agency's recommendation. On April 6, 1979 the Agency filed a related enforcement action, EPA v. City of Monmouth, PCB 79-79.

Monmouth is on the Agency's Critical Review List of sewer systems approaching hydraulic capacity or design capacity. On January 15, 1979 it was reported to have 217 PE of remaining capacity. The recommendation alleges that the city sewage treatment plant has a design capacity of 1.4 MGD. Approximately 1 MGD is bypassed into Markham Creek. No facts are before the Board concerning the strength and nature of this discharge. Under the circumstances, any additional load on the system will be bypassed directly into Markham Creek. The pleadings contain no assessment of the environmental impact of this existing or proposed discharge. Markham Creek was, however, classified by the Agency in 1974 as semi-polluted both upstream and downstream from Monmouth. (Recommendation, ¶13) It is assumed that the proposed hook-ons will result in a simple increase in the quantity discharged but will not result in a new and different kind of pollution.

Monmouth is in the process of constructing a new storm sewer which it claims will reduce the flow in the existing

combined sewer. Petitioner alleges that this will be completed in the summer of 1979. However, the Agency claims that this will not eliminate the discharges since the bypassing occurs even in dry weather. Monmouth is in the facilities planning stage of the Municipal Wastewater Treatment Works Construction Grant Program. It is alleged that the bypass will be eliminated by the fall of 1981 when a new sewage treatment plant is operational.

Monmouth seeks in this variance to build a force main pumping station and 10,535 feet of new sanitary sewer. The addition will be in two sections along Park-Way Manor and East Second Avenue. There are twenty-five existing houses in the area which are now on septic tanks. Reports cite clay and groundwater as interfering with septic drain fields. The city health officer reported four septic tanks which discharge into the streets during heavy rain. (Pet. Ex. 2) The Illinois Department of Public Health has confirmed that there are homes with septic tank problems. The Petition includes evidence that a public health hazard exists.

Petitioner cites several hardships: the money is presently available for construction of the sewers and costs are escalating; the septic tank situation poses a health hazard; the cost of constructing adequate individual septic systems is too great considering that they will be unneeded in only two years; and the city needs more sewers to grow. This last hardship is not arbitrary or unreasonable. Accordingly, the variance must be denied with respect to any new construction which will increase the sewage treatment plant loading.

The septic systems which post an immediate health hazard must be remedied as soon as possible. The Board finds that requiring further upgrading of individual sewage systems would impose an arbitrary and unreasonable hardship, in light of the expected completion of the upgrading of the sewage treatment plant in two years.

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

ORDER

It is the Order of the Pollution Control Board that the City of Monmouth is granted a variance from Rule 962(a) of Chapter 3 until December 31, 1981, or until its improved sewage treatment plant is operational, whichever occurs first, upon the following conditions:

- a. Monmouth shall complete its storm sewer project before connecting any homes to its new sanitary sewers.

- b. Within forty-five days of the grant of this variance, Monmouth shall submit to the Agency a list of all homes existing at this time in the area to be served by the new sewers, and shall indicate which have been confirmed as being hazardous to health by the Illinois Public Health Department.
- c. Monmouth shall connect only those homes existing at the time this variance is granted with septic tank problems which are confirmed as being hazardous to health by the Illinois Public Health Department.
- d. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the Certification shall be as follows:

CERTIFICATION

I (We), _____, having read and fully understanding the Order in PCB 79-36, hereby accept that Order and agree to be bound by all of its terms and conditions.

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 10th day of May, 1979 by a vote of 5-0.



 Christan L. Moffett, Clerk
 Illinois Pollution Control Board