

ILLINOIS POLLUTION CONTROL BOARD  
July 31, 1973

PERRY R. AND ANNA MAE HEAVNER,            )  
  )  
  )            Petitioner,            )  
  )            )  
  )            v.                        )            PCB 73-228  
  )            )  
ENVIRONMENTAL PROTECTION AGENCY,        )  
  )            )  
  )            Respondent.            )

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

This is a Petition for Variance filed by Perry R. Heavner and Anna Mae Heavner, which was received by the Environmental Protection Agency (hereinafter referred to as Agency) on May 29, 1973. The Petitioners seek relief from an alleged ban imposed by the Agency pursuant to the operation of Rule 921(a) of Chapter 3: Water Pollution of the Illinois Pollution Control Board Rules and Regulations (Chapter 3), on sewer extensions and connections in an area served by the Warren Levis Lagoon owned and operated by the Godfrey Township Utility Board (Godfrey). Petitioners seek such relief in order to obtain a sewer connection permit for a proposed single-family residence to be located in Madison County, in Greenwood Meadows Subdivision, Godfrey, Illinois.

The Board in Godfrey Township Utility Board v. Environmental Protection Agency, PCB72-68 (June 27, 1972), held that a Sanitary Water Board letter dated September 24, 1969 did not impose a flat ban on additional connections to existing sewers. The Opinion read "that letter stated that permits would be required for larger construction and requested -- rather than ordered -- that connections to existing sewers be limited." We agree with the Agency recommendation that Petitioners' present inability to obtain a sewer connection stems from Godfrey's refusal to issue such connection permits as was requested by the Sanitary Water Board in its September 24, 1969 letter. However, no ban, as such, on sewer connections has been imposed by the Agency; therefore, no action on the part of the Agency or the Board could change Petitioner's plight.

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

ORDER

We find that the Petition for Variance must be denied as moot and without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 31<sup>st</sup> day of July, 1973, by a vote of 4 to 0.

Christan L. Moffett