

ILLINOIS POLLUTION CONTROL BOARD
July 12, 1979

CITY OF EFFINGHAM, HARRY WARD, COLLINS,)
INC., REALTORS, MARIE BLOEMER, MR. AND)
MRS. LEONARD JENNINGS AND PAUL FEARDAY,)
)
Petitioners,)
)
v.) PCB 79-91
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter comes before the Board on a Petition for Variance filed on April 23, 1979, by the City of Effingham, Illinois and others seeking relief from Section 39 of the Environmental Protection Act and Rule 962 of the Pollution Control Board's Rules and Regulations, Chapter 3: Water Pollution Regulations. The petition requests the variance to operate a newly constructed sanitary sewer extension for five buildings in the City of Effingham. The variance is necessary since the City's present sewage treatment plant is biologically overloaded. No hearing was held in this matter; hearing was properly waived in the petition.

On June 7, 1979, the Board allowed the late filing of a recommendation from the Environmental Protection Agency that the variance petition be denied. Upon receipt of the adverse Agency recommendation, the Petitioners, in lieu of requesting a hearing pursuant to Procedural Rule 406(b), submitted a response to the Variance Recommendation under Procedural Rule 406(a), which acknowledged two errors in reporting the Effingham sewage treatment plant's discharge monitoring reports. In addition, the Petitioners submitted other documents to clarify the facts pertinent to this variance proceeding. After reviewing the Petitioners' response, the Agency filed an Amended Variance Recommendation on June 22, 1979, advising the Board that the information as amended was sufficient to warrant a favorable recommendation for the Petitioners' request for relief.

According to these pleadings read as a whole, the Petitioners have requested relief so that five establishments near the Henrietta-Fayette Street intersection in Effingham may discharge their sewage to a recently constructed sewer extension of the Effingham sewer system. The buildings include: a gasoline service station, 1200 W. Fayette; a machine shop, 1204 W. Fayette; a complex at 101 S. Henrietta providing space for a T.V. and appliance store, an electronic service shop, a finance company and two apartments; a real estate office, 111 S. Henrietta; and a complex at 201, 203 and 205 S. Henrietta housing a sports supply store, a furniture store, and a vacant business unit. While the sewer extension was originally constructed to accept an average daily flow of 2700 gallons, the combined flow of these establishments is calculated to be approximately 13 P.E. or 1300 gallons per day. (Pet. 1, 2; Pet. Resp. 3).

Under current conditions, the health department records indicate that four of the five buildings discharge to septic tanks which are deemed inadequate by approved standards of the 1974 Illinois Private Sewage Licensing Act and Code (Ill. Rev. Stat., 1977, Ch. 111 1/2, par. 116.301 et seq.). The fifth structure, the gasoline service station, was cut off from City sewer service when its connection was destroyed during a road construction project. According to Michael F. Blair, Director of Environmental Health of the Effingham County Health Department, the treatment systems identified in this petition have been discharging inadequately treated sewage thus creating a detriment to public health. (Pet. 2, 3, Exh. C; Pet. Resp. 4).

Review of the record indicates that while the Effingham treatment facility is on restricted status, the City of Effingham has undertaken measures to expand and upgrade its treatment facility under federal construction grants program. Upon last review, in American Development Corporation, PCB 77-296, 29 PCB 431 (March 30, 1978), the City of Effingham had completed the Step I facilities planning and the Step II design plans, but Step III construction grants were delayed due to lack of available federal funds. Currently, the City of Effingham has received the necessary Step III grants monies for construction of a sewage treatment plant and an excess flow facility. Expected completion dates for each project are October 12, 1980, and July 1, 1981, respectively. (Pet. 4, Exh. D; Pet. Resp. 1, 2; Exh. E).

Until completion of this construction program, the City of Effingham must rely on a sewage treatment plant which has been on restricted status since February 20, 1976. The current Effingham treatment plant consists of a trickling filter facility with a permitted loading capacity of 1.75 MGD. On June 20, 1977, the City was issued an NPDES permit which required that the effluent concentrations not exceed 10 mg/l BOD₅ and 12 mg/l

suspended solids, but an Enforcement Schedule Compliance Letter, accompanying the permit, allows 40/60 BOD/SS on a 30-day average and 60/90 BOD/SS on a 7-day average. According to discharge monitoring reports, the Effingham facility is currently meeting the revised limitations of its NPDES permit despite periodic daily flow rates well in excess of its 1.75 MGD design capacity. (Rec. 2, 3).

The Agency's Variance Recommendation as amended stated that the sewer extension would discharge to the recently enlarged Robbin Hill Lift Station in Effingham, which should be able to accept a small increment of 1300 GPD without causing or contributing to sewer problems downstream from the new extension. It is the Agency's belief that in light of the health problems which will persist until the Petitioners are properly connected to the Effingham sanitary sewer, the request for relief should be granted. (Am. Rec. 3).

In view of the record before us, the Board finds that the Petitioners would suffer an arbitrary and unreasonable hardship if required to improve their systems to current Department of Public Health standards until the City of Effingham is relieved of its restrictive status. The Petitioners will thereby be granted a variance from Rule 962(a) of Chapter 3 to allow operation of the newly constructed sanitary sewer extension for the five buildings named in this petition. The Board will, however, dismiss the petition for relief from Section 39 of the Act; a variance from the aforementioned rule provides sufficient relief for issuance of the necessary operating permit.

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

ORDER

1. The Petitioners, City of Effingham, Harry Ward, Collins, Inc., Realtors, Marie Bloemer, Mr. and Mrs. Leonard Jennings and Paul Fearday, are hereby granted a variance from Rule 962(a) of Chapter 3: Water Pollution Regulations, to connect the buildings denominated in the petition and the Board Opinion to the Fayette Avenue sewer extension which discharges into the Effingham sewer system.
2. The Petition for Variance from Section 39 of the Environmental Protection Act is hereby dismissed.
3. Within forty-five (45) days of the date of this Order, each of the Petitioners shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance.

The forty-five day period herein shall be stayed during judicial review of this variance pursuant to Section 41 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 79-91, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of July, 1979, by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board