

ILLINOIS POLLUTION CONTROL BOARD

August 28, 1975

CITY OF SILVIS, GREATER METROPOLITAN)
AREA HOUSING AUTHORITY OF ROCK ISLAND)
COUNTY, DDH PROPERTIES AND GRACE POMEROY)
on her own behalf, and on behalf of all)
those in her class desiring government)
assisted rental housing for the elderly,)
)
Petitioners,)
)
vs.) PCB 75-241
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

Petitioners seek variance from Board Order No. 10 which was entered in EPA vs. City of Silvis, PCB 71-157, August 22, 1972. Order No. 10 provides:

"The Cities of Silvis and East Moline shall not permit the construction of any new sewers or other source of waste to their facilities, or any increase in the strength or concentration of waste discharged to their facilities unless permitted to do so, either by variance or otherwise."

Petitioners seek relief in order to construct a 100-unit low income, high-rise apartment building for the elderly and handicapped.

The proposed facility, identified as Illinois Project 10-10, will be constructed pursuant to Section 23 of the Federal Housing Act at 940 11th Avenue, Silvis, Rock Island County, Illinois. Greater Metropolitan Area Housing Authority of Rock Island County is the local housing authority charged with the responsibility of developing and managing government assisted housing projects in certain areas of Rock Island County, including Silvis. The Housing Authority states that it secured an allocation of 100 units for City of Silvis and then extended invitations for proposals for the development of the facilities. DDH, a partnership, submitted a proposal pursuant to the invitation and was notified on April 21, 1975 that its proposal had been accepted by the Chicago office of the Department of Housing and Urban Development.

The petition states that Grace Pomeroy is qualified to move into a government assisted housing project and that she has been on a waiting list for such housing since 1973. It is alleged that she is one of a class of over 1400 qualified applicants on waiting lists of Housing Authorities located in Rock Island County. In the event Illinois Project 10-10 cannot be constructed, Grace Pomeroy will have little opportunity to move into a desirable government assisted rental unit in the near future.

City of Silvis has been under a sewer connection ban since August 1969, a total of 6 years. In City of Silvis vs. EPA, PCB 74-88, the Board noted that the treatment of sewage by City of Silvis has changed little since 1969:

"The sewage problems in Silvis have existed too long. The community was slow in addressing these problems, but in recent years, the upgrading of the Silvis sewer system has been complicated by 'regionalization'. In PCB 71-157 the Board approved a plan for Silvis to complete construction of an interceptor main to the East Moline facility by the date when the City of East Moline completes the construction of its new and larger regional treatment facilities. Originally this completion date was to have been December 3, 1973. Since that Order, a number of events have occurred including the impoundment of sewage treatment plant construction funds by President Nixon. Further aggravating this problem was the enactment of a provision in the Federal Water Pollution Control Act of 1972 stating that any municipality which starts construction before receiving a Federal grant is barred from any reimbursement from the Federal Government."

It now appears that City of Silvis has finally unsnarled its sewage treatment problems. A grant for construction of the interceptor sewer line was awarded by the Environmental Protection Agency on April 18, 1975. Petitioners state that the schedule for construction of the \$737,000 interceptor sewer line is as follows:

July 15, 1975 - commence construction
October 1, 1976 - complete construction

Upon completion of the interceptor line project, sewage from Silvis will receive secondary treatment in the East Moline regional sewage treatment plant.

Petitioners state that the developer cannot commence construction of the high-rise facility because an FHA mortgage will not be granted until EPA clearance is obtained. The developer is required by Section 23 of the Federal Housing Act to "commence construction and proceed diligently to completion or the Housing Assistance Contract will be terminated", according to Petitioner. Without a variance, the contract will be terminated "causing an arbitrary and unreasonable hardship" to Petitioners. It is expected that the proposed facility will generate 15,000 gallons of domestic sewage and 25.5 lbs. of BOD per day. It is claimed, however, that no injury would be imposed upon the public if variance is granted since the interceptor project "should be completed before the building can be constructed and occupied".

The Agency reports that on June 28, 1974 Silvis was issued an NPDES permit, the terms of which required Silvis to adhere to the following schedule in construction of the interceptor:

Commence construction	September 30, 1974
Progress reports	June 30 and July 31, 1975
Completion of construction	December 31, 1975
Operational level attained	December 31, 1975

Construction did not commence on September 30, 1974 as required by the NPDES permit and, since construction has not commenced even to this day, it is unlikely that the interceptor will be completed by December 31, 1975. The NPDES permit, which expires on December 31, 1975, requires Silvis to meet certain specified effluent limitations for BOD, suspended solids and fecal coliform bacteria during the term of the permit.

The Agency also reports that East Moline has almost completed expansion of its regional sewage treatment plant from 3.5 MGD to 11.1 MGD. A strike presently in progress has delayed completion of this expansion project. It is estimated that approximately one month will be required to finish the project once the strike is over. If this occurs "in the near future", East Moline's City Engineer believes the secondary treatment facilities could be completely installed by November 1975. The East Moline NPDES permit does not require completion of the secondary facilities until February 26, 1976.

Assuming completion of the East Moline project by February 26, 1976, completion of the Silvis interceptor project by October 1, 1976 and 18 months for construction of the high rise facility, the Agency concluded that facilities to properly treat the additional waste water would be available upon completion of the high rise structure. It is estimated that the hydraulic and organic load on the Silvis sewage treatment plant would increase by 2.5% if wastewater is discharged from the high rise before the interceptor is on line.

Agency data obtained from monthly operating reports and Agency grab samples reveal that effluent from the Silvis sewage treatment plant continues to be seriously degraded:

OPERATIONAL REPORTS

<u>MONTH</u>	<u>FLOW (MGD)</u>	<u>BOD mg/l</u>	<u>SETTLEABLE SOLIDS mg/l</u>
Nov '74	.411	178.4	2.53
Dec '74	.410	184.5	2.6
Jan '75	.381	240.0	3.16
Feb '75	.375	240.5	4.25
Mar '75	.494	251.5	3.83
Apr '75	.514	199.6	3.11

AGENCY GRAB SAMPLES

<u>DATE</u>	<u>BOD, mg/l</u>	<u>SS, mg/l</u>	<u>FECAL COLIFORM No./100 ml</u>
Sept. 9, 1974	230	130	5,800,000
Nov. 19, 1974	80	95	3,900
Jan. 29, 1974	400	140	3,500,000
Apr. 02, 1975	130	90	200

The Agency recommends the grant of variance on condition that no discharge be allowed from the high rise until the interceptor project is completed and operational and until the East Moline regional treatment plant upgrading is completed.

Petitioners object to the Agency's proposed condition, stating that the inability to connect to the sewage system upon completion of the high rise would "present an economic catastrophe". Further, Petitioner states that final endorsement of the FHA mortgage insurance would not be possible without connection to the sewer system.

Engineering consultants to City of Silvis are confident that construction of the interceptor sewer can commence by November 15, 1975 and the interceptor can be completed and in operation by September 1, 1976 "provided no unforeseen delays occur" (Petitioner Exhibit L). Based upon this schedule it appears that the interceptor line would be in operation prior to completion of the high rise.

The need for housing suitable to requirements of the elderly and the handicapped in this area is well documented. A delay in construction could jeopardize the Federal loan required for this project. However, in view of the history of delays and in recognition of the possibility that there may be further delay in

completion of the Silvis interceptor project or the East Moline upgrading project, we find that the conditions suggested by the Agency are clearly justified.

Petitioners are willing to "undertake the risk of construction, occupancy and financing" but not the "risk involved with the completion of the interceptor sewer". This could indicate that Petitioners fear some slippage in the construction schedules for the sewer projects. With a waiting list of over 1400, it would appear that occupancy for the 100 unit facility poses but minimal risk for Petitioners.

We are willing to grant the variance only upon condition that the sewer connection from the apartment building not occur until after the Silvis interceptor comes on line. Important as this apartment project is, we find that public health considerations are paramount. Serious pollution could result if the wastes from this apartment are directed to the present Silvis sewage treatment plant. We hope that it is possible for construction to begin on all of the projects. However, we cannot relieve the developers of risk. It must be clearly understood that the sewer connection of this apartment building will occur only after the interceptor comes on line.

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

ORDER

It is the order of the Pollution Control Board that City of Silvis, et al is granted variance from Order No. 10 in EPA vs. City of Silvis, PCB 71-157, August 22, 1972. Said variance is limited to a proposed 100 unit apartment building to be located at 940 11th Avenue, Silvis, Illinois subject to the following conditions:

1. The apartment building shall not be connected to the Silvis sewage treatment system until the interceptor line from Silvis to the East Moline regional treatment plant is completely constructed and in operation and until upgrading of the regional plant in East Moline is completed and operational.

2. Within 35 days of the date of this Order, Petitioner shall execute and submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a Certification of Acceptance and agreement to be bound to all terms and conditions of this variance. The form of said certification shall be as follows:

C E R T I F I C A T I O N

I (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 75-241 hereby accept said Order and agree to be bound by all terms and conditions thereof.

Signed _____
Title _____
Date _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 28th day of August, 1975 by a vote of 3-0.

Christan L. Moffett (gn)
Christan L. Moffett, Clerk
Illinois Pollution Control Board