

ILLINOIS POLLUTION CONTROL BOARD

March 28, 1974

CITY OF SILVIS,)
)
 Petitioner,)
)
 v.) PCB 74-88
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

City of Silvis requests variance from Order No. 10 of Environmental Protection Agency vs. City of Silvis, PCB 71-157. Order No. 10 prohibited the Cities of Silvis and East Moline from constructing any new sewers or any source of waste that would flow to their waste treatment facilities. The Cities were also prohibited under Order No. 10 from increasing the strength or concentration of the influent to the waste treatment facility unless permitted to do so by "variance or otherwise".

Petitioner now seeks permission to connect about 120 lots to its present sewer system. The residential area of concern is located on 13th and 14th Streets in the Silvis Heights Addition and on 15th Street in the Edgewood Addition. George O. Barr school is located in this area.

At present, Silvis provides only primary treatment of its sewage prior to discharging the waste to the Rock River. Raw sewage is sometimes discharged to the river. On June 22, 1971 the Environmental Protection Agency filed a Complaint against Silvis charging that the sewage was inadequately treated and was polluting the Rock River. The Pollution Control Board held that Silvis "was and has been for some time in violation of the Environmental Protection Act" because of its polluttional discharge (PCB 71-157).

Petitioner has been under a sewer connection ban for over 4 1/2 years. The first ban was imposed by the Sanitary Water Board in August 1969. However, the sewage treatment today is much the same as it was when the ban was first imposed.

The City now asks us to act as quickly as possible on the variance petition because there has been an outbreak of infectious hepatitis and the situation is "critical". From December 1973 through February 1974 at least 7 children attending Barr school were found to have infectious hepatitis. A parent of a child attending Barr school also contracted the disease. Our decision today comes just 21 days after the City petitioned for a variance and under the law could not have been made earlier. (EPA Section 37.)

The affidavit of Fred Siebenmann, Jr., Administrator of the Division of Environmental Health, Rock Island County Health Department was submitted in support of the variance petition. In a survey conducted during July and August 1973 Siebenmann found that almost 40% of the on-site septic systems were visibly discharging effluent in yards and down natural or man-made drainage ways with no room available for making new septic fields. It was not positively proved that the standing sewage had caused the hepatitis outbreak, but Siebenmann said the fact that the children "live in or near unsewered neighborhoods strongly suggests sewage origin". He said the "highly concentrated effluent has all of the potential for spreading enteric diseases and infectious hepatitis".

In City of Silvis vs. EPA, PCB 72-141, this Board allowed Petitioner a variance from Order No. 10 in order to connect 23 homes under circumstances similar to those presented in the instant case. In PCB 72-141 Siebenmann testified as to the conditions he had observed near the 23 homes: "Given the right sequence of events, we can have an enteric disease outbreak, probably hepatitis; you have to have someone in the neighborhood with a disease and in a system that is now functioning in order for the organisms to get into the effluent on the surface of the ground but it is typical and normal for the children in this neighborhood...to frequent the shores of the stream and play there, so the potential (exists) for the children as well as these adults who frequent the shores of the stream to get a disease." It now appears that the potential has been realized.

The Agency recommends granting this variance subject to certain conditions. In its Recommendation the Agency stated "that the immediate consideration of human welfare must over-ride any consideration for the environment and water quality of the Rock River." We concur. However, the Agency points out that only 76 of the 120 lots are presently improved. Again the similarity between this case and PCB 72-141 is observed. In PCB 72-141 Silvis sought the connection of 6 unimproved lots in addition to the 23 improved lots. As we did in PCB 72-141, we shall permit connections to be provided for only those lots that

are presently developed. Clearly the additional 44 lots are not creating any health problems and to allow connections for those lots would only encourage their development thereby aggravating an already much too serious problem.

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 31, 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.

In response to these events the Board postponed until December 31, 1974 the requirement to meet effluent standards for any discharger to the waters of the State who is or will be eligible for a construction grant. (Rule 409, Water Pollution Control Regulations).

Construction of the East Moline facility is proceeding but, according to the Agency, the contractor states that the new East Moline facility will not be equipped to receive any flow from Silvis before December 1, 1974. Silvis cannot wait for the interceptor connection to be completed. The health hazard is too great. We shall allow a variance for the connection of only the 76 lots upon which homes and septic systems now exist.

As a condition of this variance we will require Silvis to closely oversee the installation of any additional septic systems. Septic systems which will become a health hazard are not to be installed. Both the Board and the Agency are required by law "to establish a unified, statewide program...to restore, protect, and enhance the quality of the environment..." [Environmental Protection Act, Section 2(b)] The ban on sewer connection has been a useful tool in carrying out this legislative purpose in those communities which for one reason or another, have been unable to upgrade an inadequate sewage treatment facility or have been faced with unusual economic growth leading to an overloading of the treatment facilities. The intent of the ban is to cause an upgrading of sewage treatment. The installation of septic systems as a method of complying with the ban might not serve this purpose. The EPA recommends that construction of residences utilizing septic systems be prohibi-

where soil conditions, lot size and housing density indicate that septic systems will be inadequate. Such a prohibition is appropriate in this case. Statements regarding adequacy of the septic systems shall be made by the Division of Environmental Health, Rock Island County Health Department.

ORDER

It is the Order of the Pollution Control Board that the City of Silvis be granted a variance from Order No. 10 of Environmental Protection Agency vs. City of Silvis, PCB 71-157 for the purpose of allowing sewer connections for 76 improved lots, as shown (in yellow color) in Petitioner's application for variance, Exhibit C. This variance is subject to the following conditions:

1. City of Silvis shall prohibit future development of residences utilizing septic systems where soil conditions, lot size, and housing density indicate that a septic system will be inadequate. Prior to permitting construction of residences which will utilize septic systems, the City shall obtain a statement from the Administrator of the Division of Environmental Health, Rock Island County Health Department, that the septic system will meet accepted public health standards.
2. City of Silvis shall, within 180 days from the date of this Order, complete the planning process preliminaries necessary for the securing of Federal and State funds to finance the connection with the East Moline sewage treatment plant.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 18th day of August, 1974 by a vote of 5 to 0.

Christan L. Moffett