

ILLINOIS POLLUTION CONTROL BOARD
June 30, 1983

NORRIS CITY SANITARY DISTRICT)	
and LAMPLIGHT MANOR,)	
)	
Petitioner,)	
)	
v.)	PCB 83-42
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon a March 30, 1983 petition and an April 18, 1983 amended petition for variance filed by the Norris City Sanitary District (NCSD) and Lamplight Manor Apartment Complex. While not explicitly stated, the Board construes the petition as requesting variance from Condition No. 3 of the Board's October 14, 1982 Order in NCSD and Lamplight Manor Apartment Complex v. IEPA, PCB 81-187. On May 9, 1983 the Illinois Environmental Protection Agency (Agency) filed a recommendation that variance be granted subject to certain conditions. Hearing was waived and none was held.

The Board's Opinion in PCB 81-187, above, details the underlying facts in this matter which will only be summarized here. Lamplight Manor seeks authorization to construct a twenty-unit, low income, multi-family housing project to be connected through a sewer extension to the NCSD wastewater treatment plant which has been on Restricted Status since June 15, 1977. Lamplight Manor hopes to receive a Farmers Home Administration (FmHA) loan. However, that loan could be lost unless variance is granted allowing connection to the treatment plant upon completion of construction.

In PCB 81-187 the Board granted variance to allow construction, but denied variance allowing connection prior to termination of Restricted Status. As the Board stated in its October 14, 1982 Opinion, it was "faced with balancing an ill-supported need for low income housing against environmental harm that is now occurring" (Op. p. 4). The environmental harm included backups of raw sewage into yards and basements. It was because of those backups and because treatment plant upgrading was to be completed by December, 1983 while full occupancy was not expected until late summer of that year that the Board concluded that the construction should be allowed to proceed but that connection would not be allowed until termination of Restricted Status.

On March 29, 1983, the Agency reissued NCS D's NPDES Permit No. IL0030155. This permit which became effective April 28, 1983 will expire February 29, 1988. Special Condition 6 of the NPDES Permit is a schedule for compliance that is presented below:

<u>Grant Action</u>	<u>Date</u>
Submit final plans and specifications	May, 1983
Commence construction	October, 1983
Complete construction	September, 1984
Attain operation level	Not later than 3 months after completion of construction

This schedule was revised largely because the Agency insisted that NCS D segment its project in order to obtain actual flow data which will facilitate the design of the wastewater treatment plant.

NCS D is currently in the Step 2 design phase of the Federal Construction Grants Program to upgrade its sewage treatment plant. During October - November, 1982, NCS D completed its sewer system rehabilitation and the Agency authorized NCS D to proceed with design portions of the wastewater treatment plant (e.g., lab building), which would not be impacted by the flow studies. According to an NCS D engineer, flow studies have been completed and NCS D plans to submit final plans and specifications in accordance with its NPDES permit, Schedule of Compliance.

Under present projections the treatment plant will be upgraded and operational by December of 1984, while the apartments are expected to be rented by February of 1984. Thus, if the variance is granted, and if both projects are completed on schedule, connection would precede completion and full operation of the treatment plant by ten months.

The Board has never condoned the aggravation of sewer backups and will not do so now. The Agency alleges that "sanitary sewer backups and overflows in the Carrol and Liberty Street areas are still occurring" and that "flows from the proposed apartment complex will only aggravate (sic) this situation" (Rec., p.4). However, if Lamplight Manor were to install a holding tank which would hold three day's flow from the proposed development to be discharged to the NCS D only during low flow periods such that the development would not cause or contribute to sewer backups or overflows, the aggravation of environmental harm would be minimized. The holding tank could, of course, be removed upon completion of the upgrading of the NCS D treatment plant and its attainment of an operational level. Such a holding tank, based upon NCS D's figures would have to have a minimum capacity of 7,200 gallons.

With the use of such a holding tank and the expeditious completion of the treatment plant upgrading, the Board finds that there will be little or no environmental harm and concludes

that denial of the variance would constitute an arbitrary or unreasonable hardship. Variance will, therefore, be granted subject to the conditions recommended by the Agency in addition to the use of a holding tank.

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

ORDER

The Norris City Sanitary District and Lamplight Apartment Complex are hereby granted variance from Condition 3 of the Board's October 14, 1982 Order in PCB 81-187 to allow connection of a sewer extension serving a 20-unit apartment building subject to the following conditions:

1. NCSO shall continue in the Federal Construction Grants Program and comply with the following schedule:

Submit final plans and specifications	May, 1983
Commence construction	October, 1983
Complete construction	September, 1984
Attain operational level	December, 1984

2. NCSO shall submit flow and analytical data on monthly DMR's in accordance with the requirements of its NPDES Permit.

3. Lamplight Manor Apartment Complex shall install a holding tank approved of by the Agency with a minimum capacity of 7,200 gallons. Discharge from that tank shall only be permitted during low flow periods when such discharge will not cause or contribute to sewer backups or overflows, as specified by the Agency.

4. Within 45 days of the date of this Order, Lamplight Manor Apartment Complex shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We) _____,
hereby accepts and agrees to be bound by all terms and conditions

of the Order of the Pollution Control Board in PCB 83-42, June 30, 1983.

Petitioner

Authorized Agency

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 30th day of June, 1983 by a vote of 4-0.

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