

ILLINOIS POLLUTION CONTROL BOARD
November 19, 1981

WILLOWBROOK MOTEL PARTNERSHIP,)
)
) Petitioner,)
)
) v.) PCB 81-149
)
) ILLINOIS ENVIRONMENTAL PROTECTION)
) AGENCY AND THE COUNTY OF DU PAGE,)
)
) Respondents.)


ORDER OF THE BOARD (by I. Goodman):

Petitioner's Amended Petition, submitted pursuant to the Board's Order of October 8, 1981, is accepted. Respondents' Motion to Dismiss, filed November 17, 1981, is denied. The relief requested by Petitioner, a variance from Chapter 3: Rule 604, is not beyond the authority of the Board, as argued by Respondents' motion. It is the Agency which by Judge Teschner's order in People of the State of Illinois v. County of Du Page, 80 MR 432, December 8, 1980, is limited to issuing operating permits only "to those who have previously been issued and presently hold valid construction only permits" until the Marionbrook treatment facilities are upgraded. It is the County of Du Page, a party in that proceeding, which is limited to issuing "those permits which shall not cause the additional loading to exceed the monthly allocation and total loading as set forth" in that opinion. The Board's authority under Section 35 of the Act is no where limited by Judge Teschner's order. Furthermore, contrary to Respondents' arguments, from the facts now before it, the Board cannot presuppose that a variance from restricted status is useless to this Petitioner due to the holding in SCA Services, Inc. v. Illinois Pollution Control Board, 71 Ill.App.3d 715, 389 N.E. 2d 953, which affirmed the Board's decision to dismiss a permit denial appeal because the Petitioner in that instance was barred from operating by a court order.

This matter is to be set for hearing.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 19th day of November, 1981 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board