

The present Highland Sewage Treatment Plant is on Restricted Status and is severely overloaded resulting in frequent bypassing and a poor quality effluent. The City was first placed on Restricted Status by the Sanitary Water Board in 1969, and again by the Agency in 1971. The STP consists of a trickling filter facility with design hydraulic and BOD loading of 0.55 MGD and 7000 PE, respectively. The plant discharges into a small branch of Sugar Creek, a tributary of the Kaskaskia River. The Kaskaskia is noticeably degraded below the Highland plant.

The City is currently constructing a new 1.2 MGD (3.0 MGD design maximum flow) plant which is expected to be completed in late summer 1978. As the Agency notes in its Recommendation, removal of the restricted status is not certain to occur upon completion of the new facility. The Agency has issued "construct only" permits for certain developments and some of the data from the Agency's evaluation survey indicates that Highland may still have no capacity remaining. Of course, if the new facility is fully approved, then this variance will be no longer needed.

Petitioner claims that denial of this variance will cause arbitrary and unreasonable hardship. In support of this contention, Korte points to the imminent completion of the new STP and the small load increase on the system. Petitioner also cites engineering reports which indicate that soil conditions make individual septic systems an undesirable and impractical alternative to using the existing extensions. In addition, the Petitioner alleges that there will be no environmental impact from the small increase in the sewage system's load. Finally, Korte alleges that separate sewer connections for each of the businesses involved, while technically feasible, would have been economically unjustifiable. The Petitioner feels that the construction of the subject sewer extensions represented a rational and economical approach to waste disposal.

The Agency recommends granting the requested variance and indicates that no incremental degradation will occur as a result. The Agency also indicates that upon completion of the new STP the environmental degradation of the stream should be discontinued.

The Board agrees with the Agency that the granting of this variance is warranted. Nevertheless, this should not be construed as approval of the Petitioner's course of action. The Board's rules are written specifically to protect the public's health and welfare. When a sewage system is placed on Restricted Status, it is not done arbitrarily, but with the ultimate aim of protecting

the health of the community and the environment. No developer can proceed to construct unauthorized extensions in flagrant disregard of the Board's rules, merely because the developer feels compliance is "economically unjustifiable." Cases of economic hardship are dealt with under the Act in the form of variance proceedings in advance of construction.

In balancing hardship and environmental harm, the Board will not consider self-imposed hardship. However, in this case, the Board is aware that a real hardship will be placed on those businesses using the extensions, should they be forced to disconnect. Alternative means of sewage disposal are not readily available, and the current domestic discharges do not pose a significant additional burden on the system. In light of these facts and the imminent completion of the new STP, the Board finds that an arbitrary and unreasonable hardship would be imposed on the users if the variance were denied.

As the Agency noted in its Recommendation, a variance from Rule 604(b) is unnecessary, and a variance from Rule 962 will allow the Agency to issue the necessary permits for these extensions. For these reasons, the Board dismisses the requested variance from Rule 604(b).

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

ORDER

It is the Order of the Pollution Control Board that:

- 1) Petitioner's request for a variance from Rule 604(b) of Chapter 3: Water Pollution Regulations is dismissed.
- 2) Petitioner's request for a variance from Rule 962 of Chapter 3 is granted.
- 3) Petitioner shall modify the sewer extensions, known as the M. Matter Subdivision and Korte Route 40 Sewer Extension, to conform to the design, operation and maintenance criteria of the Board, if such modifications are deemed necessary by the Agency.

- 4) Within 45 days of the adoption of this Order, the Ralph Korte Construction Company, Incorporated shall execute and forward to the 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 Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-103 hereby accept said Order and agree to be bound by all of the 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 were adopted on the 20th day of July, 1978 by a vote of 5-0.

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