

Lake Sanitary District treatment plant. The Agency suggests that K.M. has another alternative, the construction of a septic field on adjacent property which K.M. possesses an option to purchase. K.M. alleges that it has expended \$1.1 million dollars toward construction of the development and that an arbitrary and unreasonable hardship will result if it is forced to exercise its option on the adjacent land and construct the septic system proposed by the Agency.

Normally a Petitioner who expends its resources on a development with full knowledge that the local sanitary system is on restricted status would receive little sympathy from the Board. The Board in the past has reluctantly denied similar petitions; to allow one would make it unfair to deny others. Prime consideration, of course, is the general health and welfare of the population served by the overloaded sewer system. This case, however, presents unique considerations of which the Board must take notice.

K.M., before going forward with its project, contacted the Agency concerning its sewer problem and requested guidance with respect to its development. In response the Agency indicated that a permit could be issued under certain conditions (Exhibit 1, Variance Petition). Conditions to be met included denial of a variance by the Board for connection to the Round Lake Beach municipal sewer system and the construction of a tertiary treatment plant. The plant would include phosphorus removal along with sufficient dilution (using City water) to bring the final phosphorus to compliance with the Board's current Regulations. Relying on this Agency representation, K.M. proceeded to develop its property. The Agency subsequently refused to issue the indicated permit stating it preferred the septic field option to connection to the overloaded sewer system. The Board finds that K.M. followed a reasonable procedure in requesting aid from the Agency and proceeded in good faith based upon the representation by the Agency that it would be allowed to connect to the sewer system if it met the Agency's stated conditions.

Having found K.M. to have proceeded in a reasonable and good faith manner, the Board must consider which method of waste water disposal would be least harmful to the citizens of the State of Illinois. There appear to be three options. The first is to connect to the sewer system directly, thereby discharging 8,500 gallons per day of untreated sewage into an overloaded sewage treatment plant. The second option is to construct a tertiary treatment plant and discharge its effluent either into the sewer system or into an adjacent slough. The third option, construction of a 8,500 gallon per day septic field adjacent to the development, is currently available to K.M. without action by the Board on this variance petition.

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Considering that K.M. proceeded with its development under the constraint of construction of the tertiary treatment plant, the Board finds that direct connection to the sewer system is not warranted. With respect to the proposed septic field, the Board has found in the past that such fields may not constitute the best possible method of waste water disposal and indeed are prone to cause subsequent problems due to the lack of percolation capacity of the soil. In addition, there was testimony at the hearing that the proposed field is marginal (R.154), is located in a low area (R.347), and that the Lake County Health Department is concerned about the percolation capacity of the soil (R.121). Although the Board could merely deny this variance request and allow the septic field to be constructed, we feel that this procedure would not be in the best interests of everyone concerned.

The option remaining consists of construction of the tertiary treatment plant, with phosphorus removal and holding capacity, the discharge from which would go either into the overloaded sewer system or, in the alternative, to the adjacent slough. The record contained very little information concerning the slough, and indeed a number of citizens complained that the slough's drainage was not sufficient to insure lack of contamination by the proposed discharge. On the other hand there was testimony that the 8500 gallons discharged into the sewer system would not overload the system transporting the effluent to the treatment plant, and would have a very minimal effect on the overloaded treatment plant itself (R.324).

The Board finds that discharge into the slough would offer, at best, a questionable solution to the problem and finds that the discharge through the tertiary treatment plant into the sewer system is the least harmful method of handling the waste water. The Board will therefore grant K.M. Round Lake Beach Development Company variance from Rules 203(c) and 962 of Chapter 3 of the Regulations to allow the construction and operation of the tertiary treatment package plant with aeration and holding capability until June 1, 1980 or until the Round Lake Sanitary District is capable of handling the effluent without danger of surcharge, whichever event first occurs, under certain conditions.

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 15th day of September, 1977 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board