

ILLINOIS POLLUTION CONTROL BOARD  
August 7, 1980

CORPORATE WEST, INC.,	)	
Petitioner,	)	
v.	)	PCB 80-96
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY, ET AL.,	)	
Respondents.	)	
GREEN TRAILS, LTD.,	)	
Petitioner,	)	
v.	)	PCB 80-97
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY, ET AL.,	)	
Respondent.	)	
FIRST CONSOLIDATED PROPERTIES, INC.,	)	
Petitioner,	)	
v.	)	PCB 80-98
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY, ET AL.,	)	
Respondents.	)	
ACE HARDWARE CORPORATION,	)	
Petitioner,	)	
v.	)	PCB 80-99
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY, ET AL.,	)	
Respondents.	)	

GRANT SQUARE SERVICE CORPORATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 80-100
	)	
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY, ET AL.,	)	
	)	
Respondent.	)	
	)	

MR. JAMES H. RUSSELL, SIDLEY & AUSTIN, APPEARED ON BEHALF OF PETITIONERS.

MR. THOMAS R. CHIOLA, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF RESPONDENT ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

On its own motion the Board hereby consolidates the five above-captioned cases for the purpose of decision.

On May 8, 1980 Corporate West, Inc. filed a petition before the Board requesting variance from Rule 962(a) of Chapter 3 of the Board's regulations to allow a sewer connection to the Lisle-Woodridge Sanitary Treatment Plant or, in the alternative, to allow participation in the joint construction and operation of a central package plant or, in the alternative, to allow construction and operation of an individual package plant for its own use only. On May 9, 1980, Green Trails, Ltd., First Consolidated Properties, Inc., Ace Hardware Corporation, and Grant Square Service Corporation filed what appear to be identical petitions.

On May 15, 1980 the Board found all five petitions herein to be deficient and ordered the appropriate local sewage district authorities be made parties to the petition. On June 27, 1980 Petitioners filed a motion to join the County of DuPage and the Villages of Lisle and Woodridge. On July 10, 1980 the Board granted the motion. The July 10, 1980 Board Order also granted the Illinois Environmental Protection Agency's (Agency) motion for continuance and ordered all hearings herein to be held by July 28, 1980 and decision herein to be entered August 21, 1980. The Agency filed its Recommendations on July 15, 1980. Hearing was held on July 25, 1980. There was no citizen testimony at the hearing; however, the Board has received public comment in this matter.

The petitioners herein are various corporations holding different property interests in the area surrounding the Lisle-Woodridge Sanitary Treatment Plant (Plant). They all have in common an inability to connect their proposed facilities to the Plant. The Plant has been placed on restricted status due to its being heavily overloaded. The Plant was placed on restricted

status May 31, 1979. The Board had familiarity with this sewerage situation in a previous case, Nadelhoffer-Wilson and Associates v. IEPA, PCB 80-9 (May 15, 1980). Petitioners engaged the consulting firm of Huff and Huff to evaluate alternatives which would allow them to proceed with construction of their facilities. Huff and Huff proposed an innovative program to comply with the Board's regulations which would allow Petitioners to hook up to the Plant's sewer system in return for giving funds to the Lisle Sewer System for the purpose of reducing infiltration and inflow by a like or greater amount than that which would be added by these facilities. As the Agency points out in its Recommendations, however, this would allow the substitution of normally unpolluted inflow and infiltration with heavily loaded sewage. For this and for other reasons, the Board rejects this proposed program.

In the alternative, Huff and Huff suggested constructing either a central package plant, to be jointly built and operated by Petitioners, or individual temporary treatment facilities to treat the flows from each of Petitioners' proposed projects.

In its Recommendations the Agency states that the temporary treatment plant approach is a reasonable one. Based on information available to the Agency through its rather extensive study of the treatment plant and the sewer system, the Agency proposes that two interim wastewater treatment plants be constructed. One of these plants would be located near the property of Corporate West and would directly treat the flows from the Corporate West and the Ace Hardware Corporation projects as well as a flow of 32,000 gallons per day which is currently being generated by a variance previously granted Corporate West Development, Inc. (PCB 79-163). A second plant would be designed to treat flows to be generated by the projects proposed by First Consolidated Properties, Inc., Green Trails, Ltd. and Grant Square Service Corporation. This second plant would treat equivalent flows from the entire sewer system and not those flows directly emanating from the projects, since the project flows would discharge directly into the existing publicly-owned sewer system.

It is the Agency's opinion that this proposed system will not cause or contribute to sanitary sewer overflows which were the major concern of the two public comments in this matter. The Agency recommends that variance be granted for the purpose of constructing and operating these interim treatment plants, but subject to certain conditions which will provide assurance of effective and environmentally sound operation. Petitioners have stated that they accept the Agency's Recommendation.

That the Du Page County Department of Public Works has undertaken a project, the Woodridge-Green Valley Wastewater Treatment Plant, which will expand the capacity of the Woodridge Treatment Plant from 4,000,000 gallons per day to 10,000,000 gallons per day and to provide tertiary sewage treatment. The project is scheduled for completion in 1983 or 1984. Upon completion of this project, the Lisle Sewage Treatment Plant is

to be abandoned. The Agency is of the opinion that upon completion of this new treatment plant the problems associated with the Lisle-Woodridge plants will be eliminated.

The hardship alleged by Petitioners is typical of those impacted by untimely determinations of restricted status by the Agency. Petitioners do not challenge the Agency's action, but, rather, allege arbitrary and unreasonable hardship on themselves because of it. Petitioners' proposed facilities represent commercial development of 181 acres of land and residential development of 60 acres of land over a four-year period. Economic losses alleged by Petitioners include total interest charges of over \$3,000,000 per year and a potential loss of market value of the land of about \$10,000,000 given sale of the land without sewerage treatment facilities. Potential loss to surrounding communities is characterized by decreased tax revenues, decreased retail trade demand, the loss of at least fifty jobs, and the loss of potential commercial population growth of 13,000 and residential population growth of 2,000.

In the past, the Board has been reluctant to grant variances based entirely upon economic considerations. However, the suddenness with which the various DuPage County Treatment Plants have been placed on restricted status has caused a number of projects, conceived and undertaken in good faith, suddenly to be close to completion without necessary sewage service. The Board finds that the hardships alleged by Petitioners, coupled with the efficacy of the proposed interim treatment plants, are sufficient facts to warrant the grant of variances in these cases. Although the Board does not favor the use of small interim treatment plants, this particular proposal should result in very little harm to the environment, particularly under the conditions upon the variances which the Board shall impose.

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

ORDER

1. Variance is hereby granted to Corporate West, Inc. (PCB 80-96), Green Trails, Ltd. (PCB 80-97), First Consolidated Properties Inc. (PCB 80-98), Ace Hardware Corporation (PCB 80-99), Grant Square Service Corporation (PCB 80-100), the Villages of Lisle and Woodridge, and the County of DuPage from Rules 203(d) and 402 of Chapter 3 of the Board's pollution control rules and regulations, as these apply to dissolved oxygen, for the purpose of constructing and operating two interim treatment plants for a period of four years or until the completion of the Woodridge-Green Valley Wastewater Treatment Plant, whichever first occurs, under the following conditions:

A. All Petitioners shall join in the construction of an interim wastewater treatment plant with a design average flow of at least 0.25 million gallons per day and which meets the requirements of the Illinois recommended standards for sewage works (effective March 31, 1980), which plant shall be designed

to treat, at a minimum, a design average flow that is the sum of the flow from the Corporate West project, the flow from the Ace Hardware project, and 32,000 gallons per day.

B. All Petitioners shall join in the construction of a second interim wastewater treatment plant with a design average flow of 0.25 million gallons per day which meets the requirements of the Illinois recommended standards for sewage works (effective March 31, 1980), which plant shall be designed to treat, at a minimum, the average equivalent mass BOD<sub>5</sub> and hydraulic loading that will be generated by the First Consolidated project, the Green Trails project, and the Grant Square project.

C. Upon completion of the construction of the two interim treatment plants above, ownership shall be transferred to the DuPage County Department of Public Works.

D. The interim treatment plants above shall be operated by the DuPage County Department of Public Works under a contract approved by the Illinois Environmental Protection Agency and under the direction of a properly certified operator.

E. The interim treatment plants above shall discharge an effluent quality which does not exceed ten milligrams per liter of BOD<sub>5</sub> and twelve milligrams per liter of total suspended solids on a 30-day average.

F. The interim treatment plants above shall meet limitations set by Chapter 3 of the Board's pollution control rules and regulations for all parameters therein with the exception of dissolved oxygen.

G. Flows shall be diverted to the interim treatment plant noted in A above such that the maximum steady state hydraulic operating condition is maintained. The requirements of E and F above remain in effect. The steady state design hydraulic operating condition shall be based upon the minimum raw BOD<sub>5</sub> waste concentrations expected under wet weather conditions. The flow necessary to maintain the maximum steady state operating condition shall be determined by the DuPage County Department of Public Works, subject to approval by the Illinois Environmental Protection Agency, once the operation of the plant has begun.

H. Flow shall be diverted to the interim treatment plant noted in B above such that the maximum steady state hydraulic operating condition is maintained. The requirements of E and F above remain in effect. In no event, however, may the flow be less than that volume necessary to accommodate and treat the raw BOD mass equivalent from the First Consolidated project, the Green Trails project, and the Grant Square project. The steady state design hydraulic operating conditions shall be based upon the minimum raw BOD<sub>5</sub> wastewater concentrations expected under wet weather conditions. The flow necessary to maintain a steady state operating condition shall be determined by the DuPage County Department of Public Works, subject to approval by the Illinois Environmental Protection Agency, once operation of

the plant has begun.

I. All necessary permits shall be obtained from the Illinois Environmental Protection Agency.

J. Adequate sludge handling and disposal facilities shall be provided.

K. Operation of the interim treatment plants shall terminate, if applicable, prior to final grant inspection and approval by the Illinois Environmental Protection Agency of the Woodridge-Green Valley Wastewater Treatment Plant, and the interim plants shall be dismantled within 90 days after said inspection and approval.

L. Petitioners shall obtain a modification of areawide planning requirements as necessary.

M. Within 45 days of the date of this Order, the Petitioners and Respondents County of DuPage, Village of Lisle, and Village of Woodridge shall individually execute and forward to the Illinois Environmental Protection Agency, Variance Unit, 2200 Churchill Road, Springfield, IL 62706 a Certification of acceptance and agreement to be bound by all conditions of these variances. This forty-five day period shall be stayed if Petitioners seek judicial review of this variance. The form of said Certification shall be as follows:

CERTIFICATION

I, (We,) \_\_\_\_\_, having read the Order of the Illinois Pollution Control Board in PCB 80-96, PCB 80-97, PCB 80-98, PCB 80-99, and PCB 80-100, dated \_\_\_\_\_, understand and accept the Order and agree to be bound by all of its terms and conditions.

\_\_\_\_\_, Petitioner

\_\_\_\_\_, Authorized Agent

\_\_\_\_\_, Title

\_\_\_\_\_, Date

2. Variance is hereby granted to Green Trails, Ltd. (PCB 80-97), First Consolidated Properties, Inc. (PCB 80-98) and Grant Square Service Corporation (PCB 80-100) from Rule 962(a) of Chapter 3 of the Board's pollution control rules and regulations for the purpose of constructing and connecting a sewer extension to the Lisle-Woodridge Sewage Treatment System upon the condition that Petitioners execute their duties listed under Paragraph 1 of this Order.

3. The Board shall retain jurisdiction in this matter.

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 7<sup>th</sup> day of August, 1980 by a vote of 5-0.

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