

'sewers deficient in capacity in 1970' in the September 1972 Greeley and Hansen Report". Peak flows of 0.391 MGD for the 123 acre tract and 0.090 MGD for the 7.5 acre tract are estimated by the Agency.

Lobdell and Hall on February 28, 1973 executed an indefinite waiver in this variance (R.3). In June the Board was ready to rule upon the case but Lobdell and Hall's counsel asked to submit additional facts about events which had occurred since the public hearing on March 9, 1973. A Supplemental Petition was subsequently filed on July 2, 1973. The Agency on July 25, 1973 filed a Supplement to Recommendation.

The petitioner in the new material submitted states that the voters of the Sanitary District of Rockford voted 3-1 on April 3, 1973 in favor of a \$15,000,000 referendum to finance the local share of a \$75,000,000 construction program over the next 10 years. Lobdell and Hall further state that since the March 9, 1973 public hearing the City of Rockford has acted to remove some 100 storm inlets which now empty into the "main sewage line" of the District by September 1, 1973. Lastly, the petitioner states that five Agency permits have been obtained on eight sections of sewers to relieve the East Side Low Level Interceptor and that "construction will commence immediately upon receipt of the Federal grant."

The Agency in its Supplement to Recommendation reaffirms its denial recommendation made six months earlier. It points out that the relief work on the sewer is contingent on Federal funds and no definite date for completion is available. It further discusses the basement flooding occurring in the area and again states that the petitioner's developments would aggravate and/or expand sewer surcharging conditions.

This case is somewhat similar to William H. Rogers v. EPA, PCB 73-1, decided May 3, 1973. In that case, involving the same sewer system, we granted a variance only on condition that 48-hour capacity holding tanks be installed and that truck transport be used after that time period if the sewers were still surcharged.

However, holding tanks were not requested by the petitioner and thus we will not order them. The basement flooding with its attendant health and electrocution hazards must be balanced against the investment to date in the subdivisions and the need for housing and labor. While the petitioner alleges \$165,997.17 in expenditures over and above the purchase price (which itself has not been paid) it should be pointed out that the bulk of this cost is \$147,970 in Lobdell and Hall employee charges against the project at hourly rates of \$20, \$40, and \$50. These appear to be very high charges to make for one's own employes services (R. 142-3).

The Rockford Sanitary District engineer testified that 36 calls on basement flooding in 38 months were attributable to dry weather sewer capacity deficiency in the area to which Lobdell and Hall's development would be tributary (R. 195, 218). He also stated that holding tanks might be an acceptable alternative (R. 241). No costs on holding tanks appear in the record.

We feel it best to deny the variance without prejudice at this time. The petitioner may refile giving the exact status of Federal funds for the sewer relief projects; requesting that we consider holding tanks; investigating the possible use of polymers to increase sewer transport capacity; and detailing the effect of the removal of the city storm inlets.

This opinion constitutes the Board's findings of facts and conclusions of law.

ORDER

The variance petition is denied without prejudice.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13th day of November, 1973 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

