

ILLINOIS POLLUTION CONTROL BOARD
February 6, 1975

IN THE MATTER OF DUPAGE COUNTY)
WASTEWATER REGIONALIZATION -) R70-17
PETITION FOR MODIFICATION OR)
REHEARING OF BOARD ORDER)
)

PROPOSED OPINION AND ORDER - SUBJECT TO PUBLIC COMMENT

On October 3, 1974 Kenroy Builders, Inc. (Kenroy) filed a Petition for Modification or Rehearing of Board Order. The petition seeks to change the boundary between Regions I and IV within DuPage County designated by the Board's Order of August 29, 1974 in R70-17 Du Page County Wastewater Regionalization.

On November 22, 1974 the Board issued an Order which found the Kenroy petition to comply with Board Procedural Rule 334 which allows motions for modification within 35 days of the date of entry of the Board's final order. The Board order also asked various entities to submit comments concerning the Kenroy petition to the Board within 60 days of the date of the Order.

Responses to the November 22, 1974 Order were received by the Board from the Village of Bloomingdale, the Northeastern Illinois Planning Commission (NIPC), the Illinois Environmental Protection Agency (Agency), the Village of Addison, and the Medinah Lakes Home Owners Association. Generally speaking, the Addison and IEPA responses support Kenroy's petition while Bloomingdale and the Medinah Home Owners oppose it, NIPC being in between.

In 1970 Kenroy and Addison signed a "recapture" agreement, exhibit A to the Petition for Modification, regarding the construction of a sanitary sewer to serve Kenroy property in the vicinity of Army Trail Road and proposed highway F.A. 61. Kenroy agreed to construct an oversized sewer to provide available sewer capacity to property other than that owned by Kenroy, in exchange for which, Addison would collect connection fees from persons desiring to connect to the sewer in the future and remit them to Kenroy. The cost of

the sewer system to Kenroy, completed in July, 1973, was \$782,000, of which \$240,000 was the cost to serve Kenroy's own property as outlined in paragraph 12 of the Recapture Agreement. Kenroy therefore expects to recapture approximately \$540,000 from connection fees for hookups to the sewer.

The recapture area, including the portion that is Kenroy's property, is shown in exhibit 3 of the Kenroy petition. Roughly speaking, the recapture area is on the north and west sides of Addison and is mostly unannexed. The sewer extension built by Kenroy is shown on a drawing prepared by Ciorba, Spies, Gustafson and Company, entitled General Location, also included with the petition. The western boundary of Region I, described in paragraph a.1 of the DuPage County Wastewater Regionalization Plan, and shown on exhibit 3, splits the recapture area so that a portion of it is outside of Region I and thus outside the jurisdiction of Addison. In particular the portion outside is under the jurisdiction of the northern subregion of Region IV, composed of Glendale Heights, Bloomingdale and Roselle, and it is this outside portion of the recapture area that is the subject of this proceeding.

Kenroy argues, applying paragraph a.3 of the DuPage plan, that connections to the sewer from within the recapture area but outside Region I (the subject area) cannot be made without the consent of Region IV; who therefore has veto power over Kenroy's ability to recapture monies pursuant to the Recapture Agreement. We agree with the Kenroy interpretation of paragraph a.3.

Addison supports the petition, saying that the sewer was sized to provide future sewer service to the recapture area, that the boundary as proposed is in line with an existing boundary agreement with Glendale Heights (exhibit B of Kenroy's petition), and that the sewer extension was designated prior to the time the Board conceived regionalization.

Both Bloomingdale and the Medinah Home Owners oppose any boundary change. The reasons for the Medinah opposition are that they don't need the service and that the change is "not practical or beneficial" to them. At present these people are within Region IV; the boundary change would put them partially in Region IV and partially in Region I. In terms of sewage service, the homeowners now have septic tank systems and thus don't want to pay a connection fee to Addison in the future. In addition the homeowners are trying to avoid annexation to Addison.

Bloomingtondale states that Kenroy has not shown that it (Kenroy) can service the area more economically than Bloomingtondale, that Kenroy is only concerned with recovering the costs of the sewer that it has constructed, that there is no guarantee that the sewer is sized large enough to provide sanitary service to the entire recapture area, that Bloomingtondale is able to provide service to the subject area at a lower overall cost than the Addison sewer system, that a majority of the citizens in the subject area are opposed to the boundary change as evidenced by the Medinah Home Owners opposition, and that the subject area is included in Bloomingtondale's long range plan. In their statement Bloomingtondale does not indicate the existence of sewers in the subject area, so we must conclude that at present the Addison sewer, constructed by Kenroy, is the only system presently able to provide sanitary service. With this in mind, Bloomingtondale would be unwise to attempt to duplicate the existing service.

Bloomingtondale also mentions their long range planning, and we must remind them that the Board's Regionalization Program for the northern subregion of Region IV, in paragraph d.4, requires Bloomingtondale to work together with the Villages of Roselle and Glendale Heights in planning and constructing interceptors, sewers, and sewage treatment plants and requires them to report to the Agency regarding their arrangements. In their comment in this proceeding, the Agency states that they have not received a report from the Villages within the northern subregion of Region IV, and recommends that we inquire into the completion of agreements between the Villages. Although we will not make a redesignation of authority for the northern subregion of Region IV at this time, we intend to do everything necessary to implement wastewater regionalization in DuPage County including, if necessary, a redesignation of authority.

NIPC recommended that their previous recommendation, submitted as part of the record in R70-17, be followed; with the addition that the regional boundary between Lake Street and Byron Road be the eastern boundary of the Medinah Lakes subdivision. We believe there to be merit in this last suggestion. Since the subdivision has no need for sanitary sewer service, no tap-ons to the Kenroy Sewer will occur within the subdivision so that whether or not the property is within Region I will not have a financial impact on Kenroy.

The Agency's comments were that Addison had submitted a facilities plan with their grant application that included 95% of the subject area and that the Agency would not be able to certify this facilities plan since the area was not entirely within Region I; that is, the facilities plan is not in conformance with our Regionalization Program, specifically paragraph a.1. In addition, the Agency was of the

opinion that there is "no obvious negative environmental consequence which would result from the proposed boundary change", and in fact the presence of an existing sewer may provide collection and treatment of sewage in the subject area at an earlier date when compared with other alternatives.

The Board is loath to jeopardize a person's ability to receive pollution abatement funds, unless there is another overriding environmental concern, which we do not find, especially when the funding process requires facility's planning that is similar to our regionalization program. In this case, however, Addison's facilities plan was submitted apparently with full knowledge of the Board's regionalization program. We will not permit entities to ignore our regionalization program and we expect Addison to modify its plan to conform with the regionalization program as modified by this order.

Regarding the comparison between alternatives in servicing the subject area, the Agency felt that additional technical information would be helpful to the Board, but recognized the possibility that "the cost differences between alternatives for servicing this area are inconsequential compared to the alleged economic hardship to the Petitioner and the environmental and social considerations of this decision". The Board finds that, in this instance, cost differences when comparing potential service by Bloomingdale with service by the existing Addison sewer are in fact less important than other facts, discussed previously, present in this case.

Therefore, the Board's order with regard to the Petition for Modification submitted by Kenroy, will keep the Medinah Lakes subdivision within Region IV but will modify the remainder of the boundary as requested by Kenroy.

ORDER

1. The western boundary of Region I is modified so that paragraph a.1 of Rule 1115 of Part XI Regional Sewage Treatment of Chapter 3: Water Pollution reads in part as follows:

Beginning at the intersection of the west boundary line of Section 1-40-10 and the Cook County Line; south along said boundary line and further south on Medinah Road (County 24) to its intersection with Lake Street (U.S. 20);

south from said intersection along the present western boundary of the Village of Addison, being a line approximately parallel to and 600 feet east of the western boundary of Section 13-40-10, to its intersection with the north boundary of Section 24-40-10; east along said boundary to the present western boundary of the Village of Addison, being approximately the eastern boundary of the western 1/2 of the northwestern 1/4 of Section 24-40-10; south along said Village boundary to Byron Avenue; west on said Avenue following the southern boundary of the Medinah Lakes Estates subdivision to the western boundary of Section 24-40-10; south following said western boundary and further south following the western boundary of Section 24-40-10 to the Illinois Central Railroad tracks; east along said tracks to Proposed F.A. 61 ...

2. This Order shall be published in the Environmental Register and be subject to public comment for a period until March 25, 1975.

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 6th day of February, 1975 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board