

ILLINOIS POLLUTION CONTROL BOARD
September 2, 1982

EQUITY ASSOCIATES INCORPORATED)
AND VILLAGE OF LISLE,)
)
Petitioners,)
)
v.)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY, COUNTY OF DU PAGE DEPARTMENT)
OF PUBLIC WORKS, CORPORATE WEST)
DEVELOPMENT INC., T.T.P. JOINT VENTURE,)
FIRST CONSOLIDATED PROPERTIES, INC.,)
and CONTINENTAL ILLINOIS NATIONAL)
BANK AND TRUST COMPANY OF CHICAGO,)
)
Respondents.)

PCB 82-76

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

On June 11, 1982 Equity Associates Incorporated (Equity) and the Village of Lisle (Lisle) petitioned for variance from Sections 302.206, 302.209, 304.105, 304.121 and 309.241 (former Rules 203(d), 203(g), 402, 405 and 962 of Chapter 3: Water Pollution). The petition named the Illinois Environmental Protection Agency (Agency), the County of DuPage Department of Public Works (Department), and Corporate West Development Inc. (Corporate West) as Respondents. The Agency filed its Recommendation on July 30, 1982. On August 2, 1982 Equity filed a Response to the Recommendation and a Motion for Expedited Consideration. On August 11, 1982 Equity amended its Petition, naming T.T.P. Joint Venture (T.T.P.), First Consolidated Properties, Inc., and Continental Illinois National Bank and Trust Company as additional Respondents and amended the Motion for Expedited Consideration. The Board granted the Motion on August 18, 1982. The Agency filed its amended Recommendation on August 27, 1982.

Equity is seeking variance from the above rules pertaining to dissolved oxygen, fecal coliform and Restricted Status so that it can develop a parcel of land located immediately north of the East-West Tollway and east of Naperville Road in DuPage County, Illinois. Pursuant to a boundary agreement reached April 6, 1982 between Lisle and the Village of Naperville, this parcel must obtain sewer service from the Department's Lisle-Woodridge sewer system. This system is on Restricted Status pending completion of the Green Valley sewage treatment plant, expected by July, 1983. Currently the Agency is not issuing construction permits for this system.

To develop this parcel, Equity needs variance from the Restricted Status imposed on the Lisle-Woodridge system in order to obtain construction permits for necessary sewer extensions; variance from the terms of the variance granted in Corporate West, Inc. v. IEPA, PCB 80-96 et al., August 7, 1980 in order to expand either the Corporate West or T.T.P. interim treatment plant named therein as a means of offsetting the additional loadings from the Equity project; and variance concurrent to that granted for fecal coliform and dissolved oxygen limits in Corporate West, Inc. v. IEPA, PCB 81-174, February 4, 1982.

In a two-phase program, Equity intends to construct three buildings on the 23 acre plat, which combined will require approximately 60,000 gallons per day treatment capacity. This project is estimated to temporarily create 150 construction jobs, and upon completion in Spring, 1984 to create office space for 1,600 to 2,400 persons. Completion of Phase I, two buildings, is expected to increase real estate tax revenues by over \$400,000 per year. If variance is denied, Equity estimates that it will suffer an investment loss of over \$3.5 million. The Board, however, notes that the benefits of this expenditure would not be lost, but instead deferred should variance be denied.

To alleviate overloading the existing system, which would result in environmental harm, Equity proposes a plan much the same as that accepted in Corporate West, Inc. v. IEPA, PCB 80-196 et al. Instead of constructing an interim treatment plant, however, it will expand either the Corporate West or T.T.P. package plant by 60,000 gallons per day treatment capacity, the amount equivalent as that is anticipated to be added to the system by the Equity project. Expansion of either plant is estimated to cost approximately \$235,000. Construction schedules as set out in Equity's amended petition are similar, with construction completed at the latest by July 1, 1983. The principal difference between the two plans is that Corporate West package plant discharges to Rott Creek and then to the East Branch DuPage River, and the T.T.P. package plant discharges directly to the East Branch DuPage River. Also, the T.T.P. alternative may be superior since it is located on a larger interceptor than the Corporate West plant serving the overloaded Lisle-Woodridge plants. Lastly, Equity represents that its choice of alternatives will be made no later than September 16, 1984.

The Agency Recommendation cites no environmental harm created if Equity is granted variance subject to the same conditions set out in Corporate West, Inc., id. Although the Equity project will not require actual treatment capacity until one year after the Green Valley sewage treatment plant is expected to be on line, the Agency did state Equity should not be granted variance in reliance of its anticipated treatment capacity.

Considering the lack of environmental harm should the variance be granted and the hardship to Equity and the surrounding area should the variance be denied, the Board shall grant the requested variance under certain conditions. The Board finds that the alternative plans proposed by Equity adequately assure that no environmental harm will occur. Furthermore, the Board finds that Equity's plans are sufficiently similar to that set out in Corporate West, Inc., id. to allow variance in accordance with that Order.

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

ORDER

1. Variance is hereby granted to Equity Associates Incorporated and Village of Lisle from 35 Illinois Administrative Code Sections 302.206, 302.209, 304.105, and 304.121, as they apply to dissolved oxygen and fecal coliform for the purpose of constructing and operating an expansion of either the Corporate West or T.T.P. Joint Ventures package treatment plant, under the following conditions:
 - A. Equity Associates Incorporated shall determine which plant is to be expanded no later than September 16, 1982 and thereafter so inform the Illinois Environmental Protection Agency.
 - B. Equity Associates Incorporated shall comply with the construction schedule, applicable to its choice of plants, as contained in its Petition, with construction completed no later than July 1, 1983.
 - C. Equity Associates Incorporated shall expand the chosen interim wastewater treatment plant to treat at a minimum, a design average flow equivalent to that estimated to flow from its development project.
 - D. Both Petitioners shall comply with the appropriate conditions set out in Paragraph 1 of the Order in Corporate West, Inc. v. Illinois Environmental Protection Agency, PCB 80-96 et al., August 7, 1980.
2. Variance is hereby granted to Equity Associates Incorporated and Village of Lisle from 35 Illinois Administrative Code Section 309.241 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. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental

Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 82-76, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 2ND day of September, 1982 by a vote of 5-0.

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