

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1981

CROOK DEVELOPMENT CO., AND THE)
BOARD OF TRUSTEES OF THE TOWN OF STOOKEY,)
)
Petitioners,)
)
v.) PCB 80-230
)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by J. Anderson):

Petitioners' May 18, 1981 Motion to Reconsider the Board's Opinion and Order of April 16, 1981 is hereby granted. Petitioners have requested, and the Agency has supported in its May 27 Response, modification of the Order to allow issuance of sewer construction and operation permits for two additional sixteen unit apartment buildings.

Petitioners' motion, as verified by affidavit, states that Stookey Township anticipates completion of its new sewage treatment plant by January 31, 1983. Crook seeks variance for two planned buildings, construction of which has not yet commenced. If variance is granted, Crook plans to complete construction of one building in June, 1982, and of the other in late spring, 1983.

The record as a whole does not support grant of variance as requested. The Board has consistently declined to grant variance in situations where the hardship alleged is that which restricted status was designed to impose -- a moratorium on new construction, planned but not started, which would create additional loading to an overloaded sewer system and/or sewage treatment plant. However, in light of the anticipated completion of Stookey's treatment plant in early 1983, and the economic hardship alleged that Crook's employees would suffer from a lay-off, the Board will modify its Order to allow the Agency to issue a "construct only" permit for the additional planned 32 units. The Board believes that this will result in some amelioration of the economic hardship to Crook without aggravating the environmental hardship to Stookey's present residents.

In extending this variance to allow issuance of "construct only" permits, the Board intends only to allow Crook to commence construction prior to completion of Stookey's plant. This Order shall not be construed as authorizing issuance of a sewer operation permit prior to the lifting of restricted status.

This Supplemental Opinion, together with the Opinion of April 16, 1981, constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Board hereby modifies its Order of April 16, 1981, by deleting Paragraph 2 which reads "Variance as to the 48 planned units is denied for failure to prove arbitrary or unreasonable hardship", and inserting in lieu thereof the following:

"2. Petitioners are hereby granted variance from Rule 962(a) of Chapter 3: Water Pollution to allow issuance of sewer construction permits for two planned 16 unit apartment buildings to be located in Oak Hill Village and constructed no earlier than is set forth in the construction schedule contained in Crook's Motion for Reconsideration of May 18, 1981, which schedule is incorporated herein by reference as if fully set forth."

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Supplemental Opinion and Order, was adopted on the 16th day of June, 1981 by a vote of 4-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board