

escrow account of approximately \$450,000. to finance the necessary construction.

The Board finds that the circumstances of this case merit special attention. Petitioner's treatment plant receives only sanitary sewage and no industrial or commercial wastes. Homes are constructed individually. Consequently, the loading can be predicted accurately. Denial of a variance in this instance would require Petitioner to construct additions to its treatment plant which might not be used for eight years or to build on only those lots which have permitted sewer service. Either alternative would impose economic hardship without any resulting environmental improvement. This imbalance renders the hardship arbitrary and unreasonable.

The Board finds that the quarterly reporting form attached as Exhibit C is sufficient to inform the Agency of development of subdivisions. The escrow agreement attached as Exhibit D is sufficient to insure that necessary construction will be financed. The Agency's request to be advised annually of the escrow balance is reasonable. Since this variance is limited to a term of five years by Section 36(b) of the Act and no sewage plant or interceptor construction is contemplated for eight years, a firm timetable for compliance can be addressed in a future proceeding.

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

ORDER

It is the Order of the Pollution Control Board that Petitioner be granted a variance from the requirements of Rule 962 of Chapter 3: Water Pollution of the Board's Rules and Regulations until September 30, 1983 subject to the following conditions:

- 1) Petitioner shall submit quarterly reports to the Agency in the form attached as Exhibit C to Petitioner's response.
- 2) Within 30 days of the date of this Order, Petitioner shall submit a copy of an executed escrow agreement to the Agency in the form attached as Exhibit D to Petitioner's response.
- 3) On July 1 of each year until the termination of the escrow agreement Petitioner shall submit a report of the escrow balance certified by the escrow agent.
- 4) All reports and documents referenced in conditions 1-3 shall be sent to Manager, Permits Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

- 5) If, during the term of this variance, the loading on Petitioner's sewage treatment plant reaches 90% of its actual capacity, Petitioner shall initiate construction, after receipt of the necessary Agency permits, of a second addition to its plant or of an interceptor sewer to connect its collection system to an areawide waste treatment facility.
- 6) Within 45 days of the date of this Order, Petitioner shall execute and forward to Manager, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certificate of Acceptance and Agreement to be bound to all of the terms and conditions of this variance. This 45 day period shall be held in abeyance during any period this matter is being appealed. The form of the Certificate shall read as follows:

CERTIFICATION

I (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-194 hereby accept that Order and agree to be bound to all of its terms and conditions.

SIGNED _____

TITLE _____

DATE _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 19th day of October, 1978 by a vote of 4-0.

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