

ILLINOIS POLLUTION CONTROL BOARD
April 16, 1981

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

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

This matter comes before the Board on the petition for variance filed December 22, 1980 by Crook Development Company (Crook), as amended March 10, 1981 (pursuant to the Board's Order of February 19, 1981) to include as a petitioner the Board of Trustees of the Town of Stookey (Stookey), in St. Clair County. Variance is sought from Sections 12 and 39 of the Act, and Rule 962(a) of Chapter 3: Water Pollution, so as to allow issuance to Crook of a permit to construct and operate a sewer extension tributary to Stookey's treatment plant, which is on restricted status. The initial Recommendation of the Illinois Environmental Protection Agency (Agency), was filed February 13, 1981, pursuant to a motion to file instanter, which is hereby granted. This Recommendation, as amended March 24, 1981, is that variance from Rule 962(a) be granted, subject to conditions. Hearing was waived and none has been held, as the one objection to the variance filed January 19, 1981 was withdrawn January 27, 1981.

Since 1972, Crook has been engaged in the development of Oak Hill Village Apartments, located in Stookey Township. Oak Hill Village currently consists of 44 apartment units. One additional 16-unit apartment building is currently under construction and was 50% completed as of December, 1980. Crook would plan to construct an additional 48 units over the course of the next nine years. Based on a maximum occupancy figure of three persons per unit, Crook estimates that each unit would daily generate between 3 and 12 P.E. of sanitary sewage (Pet. 3).

The sanitary sewer extension which Crook proposes to install would be tributary to the sewage treatment plant owned and operated by Stookey since 1968. The plant discharges to the Prairie DuPont Creek. On September 24, 1976 the Agency issued a notice of critical review to Stookey, as the plant had an estimated tributary load of 95% of its design capacity. On January 9, 1980 the Agency issued a notice of pending restricted status because

of an estimated tributary organic waste load of 108% of the design capacity of 5,000 P.E. Restricted status was imposed on the plant July 8, 1980 (Rec. 4).

The Agency further advises that Stookey's sewers are subject to infiltration and inflow during wet weather periods, but that Agency records indicate no record of complaints about basement back-ups or sanitary sewer overflows. Solids build-up at the plant has been washed out at peak flow periods and discharged to the Prairie DuPont Creek. The one objection to this variance petition was based on this sludge wash-out problem, and resulted in a January 23, 1981 meeting between objector Orville Warring, an Agency representative, and Stookey officials to discuss and determine ways to eliminate the sludge discharge. The objection was thereafter withdrawn, and the Agency has recommended that if variance is granted, that Stookey should be required to submit a written plan for prevention of sludge discharge (Pet. 3-4, Attach. 1-2).

Finally, the Agency also reports that Stookey is and has been active in the federal construction grants program, and has recently submitted plans and specifications for expansion and upgrading of its plant to the Agency for review. Stookey is eligible for Step 3 funding, and comprehensive improvements are scheduled to be completed by January 31, 1983 (Pet. 6).

It would appear from Crook's petition that it seeks variance to allow issuance of permits for construction of a sewer extension to serve the 16 units under construction, as well as the additional 48 units it plans to construct within the next 9 years. In support of its petition, Crook states that there is a shortage of apartments in the middle to upper rental range in the Stookey Township area, as economic conditions have virtually halted construction in the area. Because of the "construction slump," Crook believes that denial of variance would cause it and its sub-contractors to lay-off employees who might well not find other work (Pet. 5, 1).

Variance is denied as to the 48 planned units. The imposition of an arbitrary or unreasonable hardship has not been sufficiently proven as to these units not under construction, particularly since some of them possibly may be "dropped from the plan" (Pet. 3). Based on the Agency's estimation that the additional P.E. loading from the 16 half-constructed units will not overload the system, the fact that plant improvements are in progress, and the depressed state of construction in the area, the Board finds that petitioners have demonstrated arbitrary or unreasonable hardship as to these 16 units, in spite of the petition's failure to state whether construction was commenced before or after imposition of restricted status. Variance is therefore granted from Rule 962(a) of Chapter 3; variance from the Act is denied as unnecessary. In addition to adopting the Agency's suggested condition regarding Stookey, the Board will require Crook to install water saving devices in the 16 unit building to minimize loading on the sewer system.

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

ORDER

1. Petitioners, Crook Development Co. and the Board of Trustees, Town of Stookey, are hereby granted variance from Rule 962(a) of Chapter 3: Water Pollution to allow issuance of sewer construction and operation permits for a 16 unit apartment building located in Oak Hill Village, subject to the following conditions:

A) Water conserving designed or equipped water closets, faucets and shower heads are to be installed in each unit. Crook and the Agency shall develop a schedule for a reasonable number of inspection tours of the building by Agency personnel who are to verify that water conservation devices have been installed prior to occupancy of the building.

B) Within 45 days of the date of this Order, Stookey Township shall submit to the Agency a) the findings of its study of the sludge discharge problem, b) its plan to prevent discharge of sludge from the plant immediately, and c) its planned facility improvements to permanently eliminate the sludge discharge problem. This material shall be submitted to: Robert L. Schleugher, Manager, DWPC Region 6, 117 West Main Street, Collinsville, Illinois 62234

C) Stookey shall continue to expeditiously pursue federal construction grant funding. In the interim, its existing plant shall be operated and maintained in the best manner practicable.

2. Variance as to the 48 planned units is denied for failure to prove arbitrary or unreasonable hardship.

3. As to the 16 units for which variance Rule 962(a) has been granted, variance from the Act is denied as unnecessary.

4. Within forty-five days of the date of this Order, each Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Variance Unit, 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 80-230, 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 were adopted on the 16th day of April, 1981 by a vote of 5-0.

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