ILLINOIS POLLUTION CONTROL BOARD
April 25, 1972

ROBERT E. NILLES, INC.	)	
	)	
	)	#72-97
v.	)	
	)	
ENVIRONMENTAL PROTECTION AGENCY	)	

OPINION AND ORDER OF THE BOARD (BY JACOB D. DUMELLE)

Petitioner has re-submitted a request for variance which was originally filed on March 16 and ruled on (dismissed without prejudice) on March 28, 1972. Petitioner seeks to be allowed to make sewer connections to eight lots in Nilles' Sheridan Road Subdivision and to be allowed to use the existing sewer services at 245 Prospect Avenue in Lake Bluff, despite the connection ban imposed on the North Shore Sanitary District as part of our order in League of Women Voters, et al v. NSSD, PCB70-7, 11, 12, 14 (March 31, 1971). The essential difference between the re-submission and the original petition is the addition of the representation that the asked for connections drain to the Lake Bluff Sewage Treatment Plant. Our earlier opinion and order concerning the instant properties was predicated on the sewer discharges flowing ultimately to the Clavey Road plant.

We have held in the past that where construction had not commenced as of the time of the imposition of the sewer connection ban, we will deny the request; see Piroyan v. Environmental Protection Agency, PCB71-103 (August 30, 1971). Where the hardship is self-imposed as in the instant case, we will not grant a variance as we have in cases where a house had been built or where substantial steps toward completion of construction had been taken, see Wachta and Mota v. Environmental Protection Agency, PCB71-77 (July 12, 1971.)

Petitioner has made conclusory allegations that denial of a variance would result in an arbitrary or unreasonable hardship. We are not bound to accept such conclusions as we do accept facts well pleaded in a verified petition, see City of Jacksonville v. Environmental Protection Agency, PCB70-30 (January 27, 1971). In the instant case, if we accepted as true all the factual allegations of the petition, we could not find proof that compliance with the order imposing the sewer connection ban would impose an arbitrary or unreasonable hardship. The petition is therefore dismissed on the ground that no variance could be granted even if all the allegations were proved.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order of the Board this 25th Day of April, 1972, by a vote of 3 to 2.

Christan L. Moffett