

ILLINOIS POLLUTION CONTROL BOARD  
August 5, 1971

FRANCIS J. & MARGARET J. DUPRE )  
 )  
 v. ) PCB 71-94  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )  
 )  
 Opinion of the Board (by Mr. Dumelle)

On May 26, 1971 the Board decided an enforcement action brought by the Environmental Protection Agency (EPA) against the Danville Sanitary District (Docket No. 71-28). Part of the order in that case was the imposition of a ban on new sewer connections by the Sanitary District.<sup>1]</sup> The petitioners in this case are husband and wife, joint owners of a residence on which construction was commenced on or about May 1, 1971 who have requested to be allowed to connect their new home to the existing sewer line. It appeared that petitioners took the following steps toward building their home before the issuance of the Board Order in PCB 71-28:

- a. On March 22, 1971, paid \$500.00 deposit on lot.
- b. On April 8, secured building permit from City of Danville.
- c. On or about April 12, contracted to purchase a "pre-fab" house, for \$13,096.07.
- d. On April 15, received mortgage loan of \$26,000.
- e. On April 20, paid final \$4,000 for lot.
- f. On May 21, paid \$1,553 for foundation.
- g. On May 24, paid \$12,965 for delivery and completion of erection of "pre-fab" home.

1] Environmental Protection Agency v. Danville Sanitary District, PCB 71-28, Order, Paragraph 2


Sewer Connections: The District shall make no new sewer connections to increase the load on the treatment facilities and it shall not allow existing connections to increase the quantity or concentration of their discharge until the monthly average BOD effluent concentration has been reduced to 20 mg/l and the suspended solids concentration has been reduced to 50 mg/l.

We grant the instant request based first on the fact that construction of the dwelling was substantially complete by the time the sewer ban in EPA v. Danville Sanitary District was instituted and secondly on the showing of the Sanitary District (through operating reports) of very substantial improvement of the quality of its effluent. This variance is granted without a hearing as the petition and attachments clearly evidence all the pertinent facts regarding commencement and progress of construction.

The nature of the hardship in this case is both arbitrary and unreasonable; arbitrary inasmuch as it is an after-the-fact imposition of a condition after the petitioners had gone beyond the point of no return in building their home, and unreasonable because denial would leave a completely built home idle and unoccupied even though the petitioners had no notice of the possibility that a sewer connection would not be obtainable at the time they made substantial and irrevocable steps toward completion of their home.

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

I, Regina E. Ryan, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above Opinion on the 5th day of August, 1971.

  
Regina E. Ryan, Clerk  
Illinois Pollution Control Board