

ILLINOIS POLLUTION CONTROL BOARD
August 13, 1971

DOLE CONSTRUCTION CO.)
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)
 v.) # PCB71-126
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)
 ENVIRONMENTAL PROTECTION AGENCY)

Mr. Delbert Haschemeyer, for the Environmental Protection Agency

Opinion of the Board (by Mr. Currie):

This petition seeks a variance from our ban on new sewer connections to overloaded treatment plants in the North Shore Sanitary District (League of Women Voters v. NSSD, # 70-7, March 31, 1971). We scheduled a hearing and notified the petitioner. A hearing officer attended at the appointed time and place and waited for a considerable period, but no one appeared to present the petitioner's case. Efforts were made to contact both the petitioner and a couple on whose benefit the petition was allegedly filed, but with no success.

The reason for scheduling the hearing was to obtain evidence as to the facts of this particular case; as our decisions in cases of this nature show, factual variations among the cases often result in differing decisions. Our procedural rules make clear that no variance may be granted without proof. The failure of the petitioner to appear at the hearing leaves us with neither proof nor any indication that the variance is still desired. Consequently we dismissed the petition August 5 for want of prosecution, and this opinion gives our reasons. This action is without prejudice to the filing of a new petition in the event the parties wish this matter to be pursued.

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

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 13th day of August, 1971.

