

ILLINOIS POLLUTION CONTROL BOARD
August 14, 1986

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-139
)
VICKERY MANOR SERVICE CORPORATION)
and NORTH HILLS MUTUAL SEWER)
ASSOCIATION,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes to the Board on a May 5, 1978, complaint filed by the Illinois Environmental Protection Agency ("Agency") against Vickery Manor Service Corporation ("Vickery Manor") regarding its sewage treatment plant near Mundelein, Illinois. The complaint, as later amended, claims violations of the Environmental Protection Act ("Act") and Board regulations relating to water pollution, including failure to meet a construction and compliance schedule; failure to submit monitoring report forms; failure to meet effluent limits; and failure to properly maintain its plant. The initial hearings were held in February and March of 1981. Briefly, respondent admitted it had "technically deviated from the terms of its NPDES permit," but claimed that compliance was an economic impossibility. On August 26, 1981, Vickery Manor filed a request for delay of decision to allow time for settlement discussions. On December 23, 1981, Vickery Manor filed with the Board a copy of its Application to the Illinois Commerce Commission ("ICC") for an Order Canceling its Certificate of Convenience and Necessity. In the period of time from late 1981 to the present, the parties and the customers of Vickery Manor appear to have worked reasonably diligently to achieve a solution to both the environmental and economic problems presented. That solution was first submitted to the Board in a June 13, 1986, motion for expedited hearing and Board review of Settlement Agreement. A hearing on that settlement agreement was held July 22, 1986.

The proposal for settlement is premised on the participation of North Hills Mutual Sewer Association ("NHMSA"), a not-for-profit corporation formed by residents served by Vickery Manor's facility. It is the intention of the settlement agreement that NHMSA takeover the assets, facility and operations of Vickery Manor. Accordingly, NHMSA's motion to intervene as a party respondent (Settlement, par. C, p. 6) is granted. The settlement

agreement provides that Vickery Manor admits to each violation in the Amended Complaint and agrees to pay a \$250.00 civil penalty. In return for Vickery Manor's admissions and agreement on the civil penalty, the Agency agrees to the substitution of NHMSA for Vickery Manor. NHMSA agrees to implement a compliance program, outlined on pages 7-9 of the agreement, which should greatly improve the condition of the facility.

This case has presented a very difficult problem. The environmental difficulties could be easily remedied with a proper infusion of capital. However, the economic facts in this situation and legitimate ICC concerns in establishing fees and rates have placed constraints on the source of that funding. Today's settlement agreement provides an innovative and appropriate approach to the funding difficulties. The Board has reviewed the Stipulation and Proposal for Settlement in light of the facts and circumstances of this case and the factors of Section 33(c) of the Illinois Environmental Protection Act. The Board finds that the stipulation and proposal for settlement presents a just and equitable solution to a very difficult problem and will accept that document as written and direct that its terms be carried out.

This settlement clearly anticipates future action before the Illinois Commerce Commission which will be premised, in part, on the stipulation and proposal for settlement, as well as the Board' Order. Therefore, the Board will not redraft that document into the normal format of a Board Order. Instead, the Board specifically adopts each and every provision of the statement of facts as the Board's findings of fact. Further, the Board adopts each and every provision of the proposal for settlement as the Board's conclusions of law and orders that those provisions be carried out. For clarity, the Clerk of the Board is directed to attach a copy of the Stipulation and Proposal for Settlement to this Order. Those provisions which run from the date of the Board Order approving the document shall run from August 14, 1986.

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

ORDER

The Board accepts the attached Stipulation and Proposal for Settlement and directs that its terms be carried out.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14th day of August, 1986, by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board