

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 1976

NORTH SHORE SANITARY DISTRICT,        )  
    Petitioner,                            )  
  )  
    v.                                        )     PCB 75-301  
  )  
ENVIRONMENTAL PROTECTION AGENCY,        )  
    Respondent.                            )

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Board upon petition for variance by North Shore Sanitary District (NSSD), filed July 30, 1975. In its petition and subsequent amendment, NSSD requests that it be granted variance from a sewer ban imposed by the Board in PCB 70-7, 12, 13, and 14, said variance to be a further extension of that granted in PCB 71-343 and subsequently amended in 72-451, 73-502, and 74-344. The variance is requested for NSSD's Waukegan treatment plant. In the aforementioned prior variances, NSSD has been granted permission to issue sewer permits totalling 13,333 population equivalents (P.E.), of which approximately 700 remain unissued at this time. In its petition, NSSD requests an additional 5,000 P.E. be granted to their Waukegan plant, or in the alternative that consideration be given to terminating the sewer ban in connection with the Waukegan Plant.

The Illinois Environmental Protection Agency (Agency) filed a recommendation on September 24, 1975, proposing that variance be limited to the extension of the existing variance and its approximately 700 unused P.E. The Agency, based upon information provided by NSSD, feels that the Waukegan plant is in a state of hydraulic overload and that the operational results failed to consistently maintain standards required by the NPDES permit granted to the Waukegan Plant and previous Board orders.

A hearing was held in this matter on November 19, 1975, at which NSSD presented testimony and exhibits in support of its position that the information upon which the Agency had based their recommendation was in error. The evidence presented by NSSD indicated that the flow meter utilized to present total flow information to the Agency was deteriorating and had given inaccurate flow rates for some months. In addition, it was indicated that a new analyst had been hired in April of 1975 and that erroneous data, due to

incorrect analyzing procedures by this new chemist, had been presented to the Agency. Petitioner's Exhibit No. 1 included a re-evaluation of the allegedly erroneous data alleging that the NSSD had not experienced the serious hydraulic overloading as had been previously indicated and that their effluent was within the applicable limits.

The Agency, in its brief, reiterated their original contention that the NSSD was hydraulically overloaded and did not meet the applicable effluent standards. The brief also indicated that the NSSD had presented reasonable explanations of the factors which may have given rise to erroneous results. The Agency is concerned that there now exists no accurate data upon which to make a reasonable evaluation. The Agency is, however, willing to re-evaluate the situation upon receipt of current reliable data.

There appears to be two issues of fact presented by the parties in their briefs. First, the issue of whether the Waukegan Sanitary Treatment Plant is hydraulically overloaded. Much argument was presented by both sides concerning whether the various recirculation flows should be subtracted from the reported plant flows. The Board, based upon the testimony and record, finds that these flows are so small as to not materially effect the load status on the plant and, therefore, will not be considered in the Board's determination of this question. The Board finds the apparent discrepancy between the influent and effluent meter readings to be of far greater importance. The arguments by NSSD on the subject suggest that the use of potentially unreliable effluent meter readings may have unduly prejudiced the Agency's recommendation.

The second issue of fact presented concerns the actual pollutant concentrations in Waukegan Sanitary Treatment Plant's effluent. The Agency argues that Waukegan is not fulfilling its requirements based upon the information presented by NSSD from their records and from grab samples taken by the Agency. NSSD now claims that the information it provided the Agency concerning effluent concentrations was in error due to the new chemist hired in April, 1975, and considers the grab samples, taken by the Agency, to have no weight due to their instantaneous nature. The Board agrees that a single grab-type sample carries little weight in a sanitary treatment plant process and agrees that there may have been some erroneous data used by the Agency in their recommendation.

The Board, however, finds the Agency's reluctance to consider short term revised data to be reasonable, at least in so far as the possible lifting of the entire sewer ban at the Waukegan plant. The Board finds that there is not, at this time, sufficient evidence in the record to indicate that the lifting of the ban on the Waukegan plant would not result in harm to the environment. On the other hand, the hardship imposed on the people of the district who are presently paying for services they cannot receive from NSSD, due to the ban, is certainly a heavy burden.

The Board finds that the evidence in this case supports the grant of a limited variance to the Waukegan plant. The fact that the new, substantially completed, installations at Waukegan will be totally completed by November, 1976, carries great weight in this decision. The Board will, therefore, grant variance of an additional 1500 P.E. from January 1, 1976, until December 31, 1976. The 1500 P.E. is the Board's best estimation of the minimum extra sewer capacity required by the district for 1976, based upon the record herein. In addition, at the end of April, 1976, NSSD will present a summary of their effluent results for the previous 12 months to the Board and the Agency. The Agency, after review of this data, will present its recommendation to the Board with regard to:

1. The possible increase of the 1500 P.E. to 5000 P.E. for the time remaining on the variance; and
2. The possibility of lifting the sewer ban at Waukegan, taking into account the progress made toward completion of the new facility.

The Board retains jurisdiction in this matter for the purpose of this review.

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

#### ORDER

It is the Order of the Pollution Control Board that:

1. Variance be and is, hereby, granted from January 1, 1976 through December 31, 1976, for the NSSD to connect not more than 1500 Population Equivalents to Waukegan's Sewage Treatment Plant.

2. On or before April 15, 1976, NSSD shall submit to the Board and the Agency a summary of the data they have collected in the past 12 months concerning NSSD's effluent concentrations and effluent flows.

3. On or before May 15, 1976, the Agency shall submit its recommendation to the Board based upon the information received under paragraph 2 above concerning:

a) The expansion of the total additional population equivalents from 1500 to 5000; and

b) The possibility of removing the sewer ban on the Waukegan Sanitary Treatment plant.

4. NSSD shall submit status reports concerning the construction at the Waukegan Plant including but not limited to timetables for completion and resulting plant capacity to the Board and the Agency on or before March 1, 1976 and September 1, 1976.

5. All applicable conditions of PCB 73-502 shall remain in full force and effect.

6. The Board retains jurisdiction in this matter for the purposes stated herein.

Mr. Young abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8<sup>th</sup> day of January, 1975 by a vote of 3-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board