

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1973

NORTH SHORE SANITARY DISTRICT)
)
) #72-451
)
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

MURRAY R. CONZELMAN APPEARED ON BEHALF OF PETITIONER
 RICHARD W. COSBY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF
 OF RESPONDENT

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

By our Order of March 2, 1972, modifying our Order of January 31, 1972, we granted the North Shore Sanitary District permission to add a total of 5,000 living units or 20,000 P. E. to the sewers tributary to the Waukegan and Clavey plants, directing that the allotment under this variance be apportioned between the Waukegan and Clavey plants, with an approximate ratio of 1/3 to Clavey and the balance to Waukegan. This variance was with respect to the comprehensive sewer ban entered in North Shore Sanitary District v. Environmental Protection Agency, ##70-7, 12, 13 and 15.

The variance allowance was granted until March 2, 1973. On November 17, 1972, we received a petition for extension of variance setting forth that the District had granted all of the authorized permits for the Clavey Road plant but has granted only 180 permits comprising 1,460 P. E. for the Waukegan plant, leaving a balance of 3,153 permits or 11,872 P. E. unissued with respect to the Waukegan plant. The petition requests the extension of variance for a one-year period to March 2, 1974 in order to issue the remaining unissued permits for the Waukegan plant.

Our January 31, 1972 and March 2, 1972 Orders granting the original variance were subject to extensive conditions with respect to the priority of issuance of permits, the conditions under which permits might be granted, the procedures to be employed by the Agency, the District and others with respect to the issuance denial and obtaining of permits and the requirement for installation of chemical and other facilities at the plants involved. See Order of January 31, 1972, Case #71-343.

The Agency recommended denial of this extension of the variance unless the petitioner could demonstrate adequate compliance with the Board's Orders. Hearing was held on the petition in Waukegan on January 15, 1973. While the District has not kept pace with the overall construction program as directed in our original Order of March 31, 1971, we believe that the conditions set forth in our January 31, 1972 and March 2, 1972 orders, granting the variance for Clavey and Waukegan have been substantially complied with. We also note that the March 2, 1972 modification of our January 31, 1972 Order enlarging the number of units for which the variance would be granted was in contemplation that the construction allowed by the variance would cover a period greater than one year, the maximum period of time for which a variance may be granted pursuant to statute. The March 2, 1972 opinion states:

"The issuance of only 1000 permits precludes developers, contractors and others engaged in the Lake County housing industry from proceeding with concrete commitments for construction in the coming years."

The League of Women Voters, petitioner in the original case in which the sewer ban order was entered, recommends allowance of the variance extension. We will extend the variance entered on January 31, 1972 in Case #71-343 as amended by Order of March 2, 1972, to March 2, 1974, enabling the District to issue the remaining permits authorized by the original variance. This extension shall be subject to all of the terms and conditions of our original January 31, 1972 and March 2, 1972 Orders as remain applicable.

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

IT IS THE ORDER of the Pollution Control Board:

1. That variance granted to the North Shore Sanitary District pursuant to our Order of January 31, 1972 and March 2, 1972, enabling the addition of 5,000 living units or 20,000 P. E. to the sewers tributary to the Clavey and Waukegan plants, is extended to March 2, 1974, subject to all terms and conditions contained in the Orders of the Board of January 31, 1972 and March 2, 1972 in Case #71-343, as presently applicable.
2. Within 90 days of this order, the North Shore Sanitary District shall file with the Board and the Agency, a report, detailing the status of municipal programs by sewer watershed area for correction of excess infiltration into the sewer systems of Waukegan and Lake Bluff, together with timetables and costs, where available.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion was adopted on the 14th day of February, 1973, by a vote of 3 to 6.

