

ILLINOIS POLLUTION CONTROL BOARD
June 14, 1973

EXCHANGE NATIONAL BANK OF CHICAGO
as trustee under its Trust No. 23787;
CRYSTAL POINT OF LAKE FOREST, a limited
partnership and beneficiary of said trust,
and KATZ-WEISS CONSTRUCTION CORPORATION

v.

PCB 73-15

ENVIRONMENTAL PROTECTION AGENCY

INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

Petitioners seek a variance from this Board's order entered on March 31, 1971 in League of Women Voters v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14. That order created a moratorium on construction in Lake County, Illinois by precluding any additional sewer connections to the North Shore Sanitary District (NSSD). Some permits were subsequently authorized by later Board orders. Hearing was held on April 5, 1973.

The sanitary sewer extension which serves petitioners' development is tributary to the Lake Forest sewage treatment plant. It is a primary plant with a design average flow of 1.2 mgd and a design flow of 3.0 mgd. The current average flow is 1.9 mgd. The plant provides alum treatment, primary sedimentation and chlorination. During peak flow periods partially treated sewage is bypassed directly to Lake Michigan. By September, 1973, dry weather flow from the Lake Forest Plant is expected to be diverted to the Clavey Road Plant while excess wet weather flow will be treated at the Lake Forest Plant.

In addition to being hydraulically overloaded, the plant produces an effluent which is high in BOD and suspended solids. Operational reports for October, 1972 thru January, 1973 show BOD at 77, 31, 49 and 32 mg/l and suspended solids at 43, 26, 43, and 44 mg/l. Five Agency grab samples taken between May, 1972 and January, 1973 show BOD at 75, 70, 50, 75 and 40 mg/l and suspended solids at 36, 6, 15, 35, and 85 mg/l.

Petitioners' propose to build three condominium buildings having a total of 102 apartment units and an estimated additional hydraulic load of 30,600 gallons per day with an additional 52 pounds per day of BOD. The total project consists of six buildings, three of which have already been built and are occupied. Petitioners' contracted on July 31, 1969 to purchase the land for over \$1,000,000. The proposed

development was approved by the Lake Forest City Council on February 2, 1970. On August 26, 1970 the project received a Lake Forest sewer permit. Petitioners, however, have never received a permit from the Agency.

Petitioners, in oral representations before the Board have stated that they have put one condominium building under construction at their own risk with completion and use scheduled for April 1, 1974. They would anticipate starting the remaining two buildings this year with completion dates being respectively July 1, 1974 and September 1, 1974.

The petitioner has an investment in facilities intended to be used by the entire 6-building complex. We are cognizant of that construction and the losses incurred in investment costs lying unutilized. On the other hand, the Agency points out that increased flows to the Lake Forest plant, now overloaded, will only worsen the effluent and thus affect Lake Michigan.

The solution, of course, is to divert the Lake Forest plant to an enlarged Clavey Road plant. But the details as to that eventuality lie in another proceeding not yet before us and just postponed for additional hearings to late July (North Shore Sanitary District v. EPA, PCB 73-134). The statutory time is about to run on the instant proceeding and we must decide.

Since use of the building now under construction is not to be before April 1, 1974 we grant a variance for that connection. We defer the decision on the remaining two buildings until August 15, 1973 and keep this proceeding open pending completion of PCB 73-134. Counsel for the petitioner has orally agreed to a waiver until August 15, 1973 from the 90-day statutory decision period.

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

-3-
ORDER

1. Variance from the sewer connection ban order entered on March 31, 1971 in League of Women Voters v. North Shore Sanitary District, PCB 70-7, etc., is granted to petitioner in order to enable connection of one of the three buildings remaining to be constructed in petitioner's project as alleged in the variance petition filed herein. Construction of the sewer authorized by this Order may be commenced immediately, but shall not be put into use prior to April 1, 1974.
2. The decision of the Board with respect to variance of the sewer ban as to the remaining two buildings is deferred for further consideration and order of the Board until August 15, 1973, upon petitioner's filing a waiver of the 90-day variance decision rule to August 15, 1973 within five days from the date hereof.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order were adopted on the 14th day of June, 1973 by a vote of 3-0



Christan L. Moffett, Clerk
Illinois Pollution Control Board