

ILLINOIS POLLUTION CONTROL BOARD
October 31, 1972

THOMAS I. SIMPSON)
)
 v.) # 72-368
)
 CINNAMON CREEK ASSOCIATES et al.)

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)
 v.) # 72-377
)
 ENVIRONMENTAL PROTECTION AGENCY)

Mr. Leo Sullivan III, for Thomas I. Simpson

Mr. Donald T. Morrison, for Cinnamon Creek Associates

Mr. Richard W. Cosby, Assistant Attorney General,
for the Environmental Protection Agency

Opinion of the Board (by Mr. Currie):

The background of these cases was spelled out in detail in our opinion of September 12, 1972 (5 PCB ___), in which we refused to grant relief from a sewer connection ban without hearing. The hearing has since been held, and on October 24 we granted the petition on condition that adequate holding tanks were installed to prevent overloading the sewers, and this opinion explains the reasons for that decision.

The interim opinion indicated the need for proof that actual building construction commenced prior to the original connection ban of March 31, 1971; or that the petitioner had justifiably relied upon the opinion of the North Shore Sanitary District that the ban was inapplicable to those who had preexisting permits; or that the petitioner's legitimate expectations at the time the ban was imposed did not include the subsequent designation of the sewer itself as inadequate; or that a stormwater retention pond would avoid any overflow of the sewer. At the hearing, however, Cinnamon Creek proposed to install holding tanks to retain the sewage during storm periods, in order to release it to the sewers only when they have adequate capacity. We have held that such tanks, upon appropriate proof of safety and adequacy, can justify an otherwise impermissible connection. Mars Development

Corporation v. EPA, #71-218, 2 PCB 689 (Oct. 26, 1971). The present record is not complete enough to inform us as to these details, and our order leaves it to the Agency to determine that the tanks will be satisfactory to avoid overloading the sewer and to protect against possible odors, explosions, or corrosion--all issues the Agency has raised in prior cases dealing with holding tanks.

The only relief sought in the companion citizen complaint is the disconnection of the tap already made. Whether to order disconnection depends in part upon whether the Agency finds the holding tanks satisfactory, and we shall withhold action pending the Agency's decision.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 21st day of October, 1972, by a vote of 5-0.

Christan F. Moffett