

ILLINOIS POLLUTION CONTROL BOARD

September 13, 1973

HOWARD AND MARY JO PERREAULT ADAMS,)
)
) Petitioners,)
)
) vs.) PCB 73-266
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

Howard Adams and Mary Jo Adams pro se
James K. Jenks, Assistant Attorney General for the EPA

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

Petitioners purchased real estate in Lake Forest, Illinois during October 1971 with the intention of constructing a residence on it. The real estate lies within the area serviced by the Lake Forest sewage treatment plant in the North Shore Sanitary District, and at the time of the purchase Petitioner admittedly had knowledge of the sewer connection prohibition (Order No. 7 of League of Women Voters vs. North Shore Sanitary District, PCB 70-7, 12, 13, 14).

Construction of the residence commenced in June 1972. In order to comply with the "sewer ban", Petitioners installed a holding tank specified by a sanitary engineer and approved by the City of Lake Forest. Mr. and Mrs. Adams say that "a representative from the City was personally present when the holding tank was installed, and he oversaw such installation". Sewage accumulated in the tank is periodically removed by a commercial service company. Normal usage of the plumbing by this family of four would require emptying of the tank every 2 or 3 days.

Occupancy of the new residence began in February 1973. Petitioner has now experienced a back up of sewage into the residence causing damage to floors and carpeting. The sewage back up was termed a "gross inconvenience, in addition to which an unsanitary condition exists which could be injurious to Petitioners, their children and others". Petitioner has attempted to minimize the sewage problem by performing such daily routines as laundering and bathing at commercial facilities or at the homes of friends, which are within the area serviced by the North Shore Sanitary

District. Toilets and other plumbing facilities in their home are used as little as possible. Even with these adjustments, Petitioners must have their holding tank emptied about once a week at a cost of about \$150 per month. The record does not disclose where this sewage is taken. Finally, Petitioner advises that a septic tank in this location is not reasonable because of the expense and the possible loss of trees from the digging up of the yard and grounds.

A variance is now requested to allow a sewer line connection to the Lake Forest sewer system. The Environmental Protection Agency recommends that the variance be denied. The Lake Forest plant, a primary treatment facility was designed to treat an average flow of 1.2 MGD. The current average flow of 1.33 MGD receives alum treatment, primary sedimentation and chlorination prior to being discharged to Lake Michigan. Maximum design flow is 3.0 MGD. During peak flow periods sewage with only sodium hypochlorite added is bypassed to the Lake. Petitioner's connection would generate approximately 400 gallons of sewage per day and would add to the current sewage plant bypassing problem.

Petitioner's hardship is clearly self imposed. With the simplest mathematics they could have calculated that a 1200 gallon tank will become full in 3 days when normal usage is 400 gallons per day. Obviously, when full, it must be emptied in order to allow continued usage. The alternative is sewage on the carpet. We have said: "If the ban is to have any meaning, we must hold, and we have held, that in general one who commences construction after a connection ban is imposed does so at his peril; and any hardships resulting from actions taken after that date must be regarded as self-inflicted and entitled to no consideration". *Simpson v. Cinnamon Creek*, PCB 72-368; *Cinnamon Creek v. EPA*, PCB 72-377.

The data contained in the Agency's Recommendation indicate that the Lake Forest treatment facility is not in compliance with our Regulations. However, we have been advised that Phase I of the Clavey Road project is within three weeks of completion. Hopefully, the Lake Forest treatment plant tie-in to the Clavey Road plant will be accomplished within one week of full operation at the Clavey Road plant. Following that tie-in to Clavey Road, Petitioners sewer connection will be acceptable.

As we did in *Bereskin and Solomon vs. EPA*, PCB 73-143, we will allow a conditional variance in order that Petitioner may proceed with construction work up to the sewer line short of actual connection. This will allow Petitioner to connect to the Lake Forest sewer system immediately after the Clavey Road plant begins accepting the additional sewage. Petitioner's sewer connection shall not take place until after the connection of

Lake Forest treatment plant to the Clavey Road facility.

ORDER

It is the order of the Board that: Petitioners are granted a variance from our Order prohibiting additional sewer connections to the North Shore Sanitary District. This variance is subject to the following condition:

No connection shall be made to the subject sewer until after the Lake Forest system has been tied in to the Clavey Road plant and the additional capacity of the North Shore Sanitary District following the completion of construction currently underway is sufficient to meet the effluent standards of the Pollution Control Board.

Mr. Odell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 13th day of September, 1973 by a vote of 3 to 0.

Christan L. Moffett

