

ILLINOIS POLLUTION CONTROL BOARD

November 15, 1973

IN THE MATTER OF: )  
 )  
THE PETITION FOR VARIANCE OF ) PCB 73-361  
 )  
MR. AND MRS. CLARENCE TOMPKINS )

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

The Petitioners, Mr. and Mrs. Clarence Tompkins, filed a petition for a sewer variance, which was received by the Illinois Pollution Control Board (hereinafter Board) on August 24, 1973. Petitioners originally filed a petition for a variance with the Board on July 16, 1973. In an Order dated July 19, 1973, in Mr. and Mrs. Clarence Tompkins v. Environmental Protection Agency, PCB 73-291, the Board denied without prejudice Petitioners' original petition for a variance.

The Petitioners request a variance from Order 7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14, in order to obtain a sewer connection permit for a proposed single-family residence to be located at 20th and Kristian Streets in North Chicago, Lake County, Illinois. Petitioners have owned and paid taxes on certain lots at this location for four or five years. In their original petition for a variance, Petitioners asserted that their family of six (four children and two adults) had to vacate their current four-room house (which was sold) by September 1, 1973. Petitioners indicate that their present rental fees are \$6.50 per day, which they allege is burdensome. In comparison with the original petition, the current request for a variance adds information only concerning the house rental fee and indicates that the date they must vacate their quarters was postponed one month to October 1, 1973. No indication was given in either Petition as to where the family would live after the dates on which they were to vacate the house in which they were living. It is clear that they could not build a house on their lot between the date of their first Petition (July 16) and September 1, 1973, or between the date of this Petition (August 24) and October 1, 1973.

On September 26, 1973, the Board received from the Environmental Protection Agency (hereinafter Agency) a recommendation concerning the variance request from the Petitioners. The proposed sewer connection is tributary to the North Chicago sewage treatment plant, which is owned and operated by the North Shore Sanitary District (hereinafter District). This facility is a secondary treatment plant with a design average capacity and maximum flow

capability of 3.5 MGD and 7.5 MGD, respectively. In October, 1972, the District commenced polymer and alum addition at the subject facility. According to Rule 404(b) in Chapter 3 of the Board Regulations, the North Chicago plant should maintain an effluent quality of 20 mg/l BOD and 25 mg/l of total suspended solids (TSS) or less. The Agency report of September 26, 1973, indicates that "the North Chicago plant is subject to bypassing inadequately treated sewage into Lake Michigan during excess flow periods. Flows which are bypassed receive only chlorination."

A report of October 31, 1973, "Concerning The Present Status Of The North Shore Sanitary District," from the Acting Director of the Illinois Environmental Protection Agency, includes the following information concerning the performance of the North Chicago plant for the 12 months October 1972 through September 1973:

<u>Month</u>	<u>Flow (MGD)</u>	<u>BOD (mg/l)</u>	<u>TSS (mg/l)</u>
September 1973	2.30	9	23
August 1973	1.92	16	25
July 1973	2.14	30	44
June 1973	2.27	45	33
May 1973	2.69	37	42
April 1973	3.36	21	38
March 1973	3.18	35	36
February 1973	2.12	60	68
January 1973	2.76	46	52
December 1972	2.64	21	25
November 1972	2.75	26	24
October 1972	2.95	27	30

This same Agency report indicates that a "retention basin will be completed to eliminate bypass by February 1, 1974."

Prior to August 1973, the North Chicago plant failed to consistently maintain an effluent quality of 20 mg/l BOD and 25 mg/l TSS or less, as required by Rule 404(b) of Chapter 3. During August and September 1973 they met these standards, and the average monthly flows during the past year were consistently below the design capacity. Also, the retention basin will be completed by February 1, 1974, to eliminate bypassing into Lake Michigan during excess flow periods.

In the Agency Recommendation of September 26, 1973, concerning this case, performance data for the North Chicago plant were included for eight months, December 1972 through July 1973. On the basis of performance data from the North Chicago plant during this shorter period (which does not include the latest two months, August and September 1973) and statements concerning hardship, the Agency recommended that this petition for variance be denied.

Although a longer period of demonstrated satisfactory perform-

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

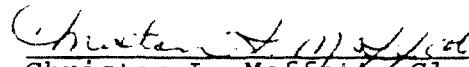
ORDER

It is the Order of the Board that:

(1) The permit denial is overruled.

(2) This case is remanded to the EPA with instruction to issue "install only" permits to Lake Forest under its petitions 73-363 and 73-364 to enable it to install the pumping station on Old Mill Road and build the Everett Road sewer improvement.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 15<sup>th</sup> day of November, 1973, by a vote of 5 to 0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board