

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1973

JOHN S. WINEMAN and)
KATHERINE S. WINEMAN)
)
v.) PCB 72-449
)
ENVIRONMENTAL PROTECTION AGENCY)

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

The petitioners filed on November 16, 1972 for a variance to permit them to connect a new residence at 320 Cary Avenue in Highland Park to a sewer tributary to the Cary Avenue treatment plant of the North Shore Sanitary District (NSSD). We grant the variance for the reasons given below.

Petitioners had filed earlier in PCB 72-310 for the same relief. The Board in an order without hearing denied that petition on October 17, 1972.

The Wineman's purchased the lot in 1963 for \$49,000. A home had been on the site and was razed but its sewer service remains and is usable. Since the razed building was removed far in advance of the Board's sewer connection ban of March, 1971, this fact does not qualify the variance for a grant under the Board's "exchange" policies enumerated in other cases.

Testimony showed that the Wineman's had income in excess of \$50,000 annually and a net worth in excess of \$500,000 (R. 33), and maintain an apartment in Chicago. The septic tank the Wineman's might have to build would cost \$5,000 and its construction might kill some 8 to 15 mature oaks of 40 oaks on the property (R. 82, 84).

We cannot use the economic hardship argument in its usual sense here since the Wineman's are well able to afford the expenditure of \$5,000 and even a loss in property value because of the loss of the trees. However, we need not waste resources if other factors will prevent that waste.

We grant the variance because of its minimal effect upon Lake Michigan in the light of the NSSD's new use of alum (aluminum sulfate) at the Cary Avenue Plant to remove phosphorus. The record of the January 9, 1973 hearing unfortunately does not present data on the effluent strengths after the alum treatment which was first debugged on December 28, 1972. However, by making some computations, it is possible to estimate the strength of the present effluent using principally the testimony of H. William Byers, General Manager and Chief Engineer of the NSSD.

Using EPA Group Exhibit No. 1, the average BOD for 26 tests (February 23, 1972 was omitted because of tank cleaning) was computed as being 67 mg/l. Using a flow of 1.0 MGD the Population Equivalent (P. E.) load to the Lake would be 3350. Byers testified to a 1400 P. E. additional removal because of the alum treatment (R. 42). 1400 is about 42% of 3350. The balance (58%) of an average 67 mg/l would be the effluent after alum treatment or about 39 mg/l. The secondary standard is 20 mg/l. This Board had previously set a 30 mg/l BOD level as being adequate at the NSSD Waukegan plant.

A 42% reduction in BOD going to the Lake makes the conditions applicable to this judgment much different from the earlier proceeding which we dismissed (PCB72-310). And while the Wineman's can afford the \$5,000 for a septic tank, the Board policy has been to discourage their use whenever alternatives are present. The Wineman's will not spend winters at their home and so, even if June, 1974 (R. 44) is the date that Cary Avenue gets diverted to the Clavey Road Plant, then the additional load of two people will be only felt for nine of the twelve months ensuing after occupancy of their residence.

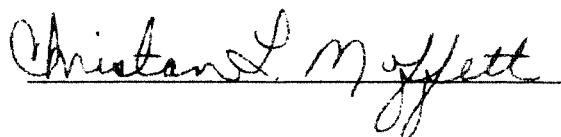
In North Shore Sanitary District v. EPA (PCB72-451) decided today, the later testimony of January 15, 1973 revealed that the Cary Avenue Plant's dry weather flow would go to Clavey Road Plant by June, 1973 (R. 108-109). If this date is achieved the instant proceeding would be mooted, but we grant it should delays occur.

O R D E R

Variance is granted to the Petitioners to connect their new residence to the sewer.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 14th day of February, 1972, by a vote of 3 to 0.


Christan L. Moffett