



While a hearing was held on the District's petition, the issue presented is solely one of law. We sustain the North Shore Sanitary District's appeal, reversing the ruling of the Environmental Protection Agency and hold that the Pfeffer exception is available to the North Shore Sanitary District in the operation of its Clavey Road plant. In doing so, we do not hold by this decision that the Clavey Road plant is permitted to discharge up to 10 BOD<sub>5</sub> and 12 SS limits, but only that the District is not foreclosed by our March 31, 1971 Opinion from seeking the benefits of the Pfeffer exception upon a proper showing to the Environmental Protection Agency that will justify the relaxed limits. It will be up to the Environmental Protection Agency to determine whether the District has satisfied the Regulations as provided in our Rules, (supra), to entitle it to the 10-12 exception.

The adoption of the Pfeffer exception, in effect modified our March 31, 1971 Order to the extent applicable. Indeed, one of the motivations for the exception was the inordinate cost to which the North Shore Sanitary District might be subjected to meet tertiary treatment requirements without any notable corresponding improvement in the dissolved oxygen content in the receiving stream. See Opinion of March 7, 1972 in matter of Effluent Criteria and Water Quality Standards Revisions, #R70-8, R71-14, 3 PCB 755, 768. Our variance Order of January 31, 1972, North Shore Sanitary District v. Environmental Protection Agency, #71-343, 3 PCB 541, permitting an effluent of 20 BOD<sub>5</sub> and 25 SS from the Clavey Road plant was a variance allowance available to the District during the period of construction and will expire on January 31, 1973. While this variance may be extended upon a proper showing, it does not alter the ultimate requirement of 4 BOD and 5 SS modified by the Pfeffer exception of 10 and 12, respectively, if applicable, which limits we require as the ultimate standard for the Clavey Road effluent when the plant is completed.

To qualify for the Pfeffer exception, Rule 404(f)(ii)(D) requires the submission of a project completion schedule prior to September 1, 1972. Since the District's inquiry to the Agency pre-dated the September 1, 1972 date, we hold that the District may pursue the Pfeffer exception notwithstanding the passage of the September 1, 1972 date if, in fact, it has not already submitted a completion schedule, providing a schedule is submitted within 35 days from this da

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

IT IS THE ORDER of the Pollution Control Board that the decision of the Environmental Protection Agency dated July 31, 1972 denying the North Shore Sanitary District the application of Rule 404(f) (ii) of the Illinois Pollution Control Board Rules and Regulations, Chapter 3 (Water Pollution) as to the Clavey Road plant, be reversed, and that the North Shore Sanitary District be entitled to the benefits of said Rule as to the Clavey Road plant upon a requisite showing of entitlement being made to the Environmental Protection Agency, in accordance with this order.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 24<sup>th</sup> day of October, A. D. 1972, by a vote of 5 to 0.

Christan L. Moffett

