

ILLINOIS POLLUTION CONTROL BOARD  
April 17, 1972

ENVIRONMENTAL PROTECTION AGENCY     )  
  )  
                  v.                             )     PCB 72-69  
  )  
CITIZENS UTILITIES COMPANY OF     )  
ILLINOIS                                    )

OPINION OF THE BOARD (by Mr. Kissel):

On February 25, 1972, the Agency filed a complaint against the Citizens Utilities Company of Illinois ("Citizens") regarding the operation of its Fernway sewage treatment plant in Westhaven. Various violations of the Act and of SWB-14 were alleged by this plant which discharges to Tinley Creek and thence into the Calumet-Sag Channel. The Agency also asked that the Board impose monetary penalties.

On March 17, the Agency filed a Motion to Dismiss in this case. In a letter to the Board, dated April 5, 1972, the Assistant Attorney General outlined the bases for the Agency's motion. The letter states in part:

" . . . In accordance with the Consent Decree (in the Circuit Court of Cook County) the respondent (Citizens) has obtained an Agency permit for the construction of an interceptor sewer from its Fernway treatment facilities to the Metropolitan Sanitary District's Stickney Plant. They are, also pursuant to the decree, making a good faith effort to install the interceptor so as to meet the July 1, 1972 deadline indicated in Paragraph 2 of the decree. It is our understanding that, once completed, the interceptor will divert all the sewage which the plant receives to the Sanitary District's Stickney plant.

"Although it was our intention, prior to being made aware of the Consent Decree, to actively pursue our complaint before the Board, seeking both abatement of the problem and penalties, such action no longer appears feasible or warranted from the standpoint of the best utilization of resources. In addition to the time, effort and cost of pursuing the complaint before the Board, we are also faced with the respondent's Motion for Injunction in the Circuit Court, seeking to restrain the Board,

the Agency and the Attorney General from proceeding on the complaint before the Board as a consequence of the Circuit Court action. Further litigation of the latter motion will take us into collateral areas of jurisdiction, and will not necessarily advance the goal of pollution abatement.

The Board concurs in the Agency's conclusions. The case is dismissed without prejudice.

It is so ordered.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted this 17<sup>th</sup> day of April, 1972, by a vote of 4-0.

