

The Agency permit issued for a plant in Glendale Heights capable of handling 3,000,000 gallons-per-day with a discharge of 4,800 pounds of BOD (biochemical oxygen demand) per day. (R. A20) In order to meet the water quality standards for the receiving stream of 4 mg/l of BOD and 5 mg/l of suspended solids, the plant was designed to achieve an effluent of 3.2 mg/l of BOD and 2 mg/l of suspended solids. (R. A20-1) Just released U.S. census figures showed Glendale Heights population in the vicinity of 18,000; based on population growth for the reasonably foreseeable future, the Agency projected a service area of 24,000 people. (R. A21) At the rate of 125 gallons per day per person, the Agency concluded that a 3 mgd plant would be necessary. Blomgren indicated that a new plant is needed on the basis of (1) population growth, and (2) a wet weather peak load which has reached 1.9 mgd. (R. A23) The third unit, he pointed out, is also necessary as a reserve unit, to be used when one of the other units is down for cleaning purposes. (R. A24)

While the Village officials recognized a desperate need for the expanded sewage treatment facility, its citizens did not. The voters defeated a referendum on May 23, 1970, which left the Village in the position of having inadequate treatment of its wastes today, and for sometime in the future. The Village sought a directive from this Board which would have given the Village the right to issue bonds in any amount permitted by the Environmental Protection Act in order to construct the new treatment facilities.

After the original hearing, the Board considered the matter and ordered the Hearing Officer to reconvene the hearing to consider the following matters:

- (1) Whether the location of the proposed addition to the sewage treatment plant entails use of a flood plain; and, if so, if such location is detrimental;
- (2) The storm water infiltration of the sewer system;
- (3) The basis for the Agency's dismissal of its request for money penalties;
- (4) Whether further connections to the sewer system should be allowed in the period between the entry of the Board's order and the completion of the proposed addition to the sewage treatment plant;
- (5) How the proposed Glendale Heights addition would conform with a regionalization of sewage treatment facilities in DuPage County.

We will consider each of those matters:

1) Money penalties - The Agency admitted that the money penalty request was dropped in consideration for the Village's admission that it was in fact polluting the waters of the State of Illinois in violation of the Environmental Protection Act, Section 12(a). We find that the compromise is a valid one for this case. It would indeed be shortsighted to require an already hard-pressed village to pay a money penalty to the State. The money is better used by the Village itself. In addition, the Village has demonstrated its good faith in submitting to the voters bond issues for the improvement of the waste treatment plant not only once, but a second time after the first time it had failed. This good faith, along with the Village's need for money and its admission of liability, is adequate basis for affirming the Agency's decision to drop from the complaint the request for money penalties to be assessed against the Village.

2) Storm water infiltration - While the letter of James Campion, an interested citizen, expressed some concern that the treatment facility would be overtaxed because of "leaky sewers", the concern seems, from the evidence, to be overstated. The Village adequately demonstrated that by the use of television, smoke testing and visual inspection it has the problem under control for the moment.

3) Location of the proposed plant in a flood plain - The interested citizen, James Campion, testified that the sewage treatment plant lies below all of the construction within the Village. (R. B14) Campion stated that the 1961 ditch flooding put the edges of the flooding at the doorstep to the sewage treatment plant and that the 1954 flood reached 400 feet from the proposed plant site. (R. B16, 17) Campion stressed that additional development and resurfacing of land upstream and downstream since the flooding and in the future enhance the possibility of flooding on the proposed expansion site. (R. B17)

The Village's testimony showed that, though the proposed location is at a low point in the Village, it is not on a flood plain. The geological map offered into evidence showed that those areas which the map outlines within a shaded blue area are on a flood plain; the elevation of the new plant will be as high or higher than the present flood plain. (R. B46) Thus, as stated, the proposed site is outside of the flooded areas shown on the exhibit. Further, the plant would be raised about 8 feet above the present flood plain indicated in the USGS map. The elevation of the construction will be 708 feet above sea level and the flood plain appears to be just under 700 feet. (R. B68)

4) Regionalization - The Village has cooperated fully with other local officials in seeking some manner of county-wide sewage treatment plan. In the feasibility studies that have been undertaken by the County and its engineering consulting firms, both the 1962 and 1969 reports contemplate additional facilities at the Glendale Heights

treatment plant site--there to serve a larger area than that presently served. (R. B55, 57) In other words, both reports indicate that the county is proposing a regional facility be located adjacent to the present Village facility. (R. B59) The present county-wide plan calls for a larger treatment plant to be built at Glen Ellyn at some future date, with the Glendale Heights facility then being phased out. (R. B61) As the Village Engineer then explained, the Glendale Heights facility is to be used as an interim facility in the approximate 10-year period before the county-wide plan is fully implemented. (R. B62) The Agency, in its corroborative testimony, also stated that it considered the regionalization of facilities in DuPage County when it originally approved the permit for the Glendale Heights facility. (R. B80) Thus, the present facility is compatible with any future plan for regionalization in DuPage County.

5) Further connections to the sewer system - Admittedly, it will be some time before the expanded treatment plant of the Village will be in full operation. Before that happens the Village will not be able to handle the wastes of the citizens presently connected to the sewer system; therefore, it would follow that the Village should not be allowed to add any other connections to this system until it has adequately demonstrated that it has the capacity to handle such wastes. The Village was agreeable to that kind of condition being imposed on it, but the Village seemed to make some kind of distinction between the new vs. old lines. This Board will require that the Village disallow any additional connections to its sewer system and this Board will not, at this time, make any distinctions of the kind made in the record.

Subsequent to the hearing, the electorate of the Village approved a bond issue for the sewage treatment plant expansion. That decision by the voters, although a welcome one, does not make this case moot. As the Village attorney has stated, the Village may need more funds because of the increasing costs of construction. There is no question in this case about pollution. The Village admits that it is polluting the waters of this state. This Board must do everything within its power to abate that pollution and in this case it means that we must invoke Section 46 of the Environmental Protection Act. This section gives the Board the power, inter alia, to order a municipality or sanitary district to issue general obligation or revenue bonds for the purpose of raising money to abate the pollution. There need be no election or referendum for the issuance of the aforementioned bonds. We believe that the instant case is an appropriate one for the invocation of Section 46. Although no amount need be specified in the order at this time, the Board expects that a sufficient amount of bonds will be issued so that within the very near future the pollution will be abated. Specific attention is directed to the provision of Section 46 which allows the bonds to be issued in such amounts as "would not raise the total outstanding bonded indebtedness of such municipality . . . in excess of the limit imposed upon such indebtedness by the Constitution of the State of Illinois" Since the new Constitution does not impose any limit on the bonded indebtedness of municipalities or sanitary districts, it may be that the Board can require bonds to be issued up to any amount. We need not decide that

question here, but the Village should be guided by the direction that the Board will use all available legal means to end pollution of the waters of this State.

The following order is hereby entered:

(1) The Village of Glendale Heights is hereby ordered to cease and desist from polluting the waters of the east branch of the DuPage River to the extent reasonably possible until the construction of additional facilities, as required below;

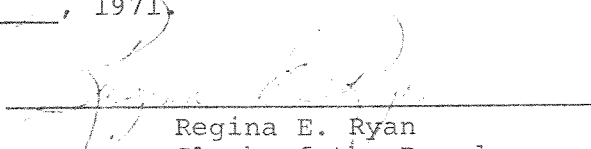
(2) The Village of Glendale Heights is hereby ordered to construct such additions to its present waste treatment facilities as would bring the Village in compliance with all applicable laws, rules and regulations governing the operation and maintenance of sewage treatment facilities;

(3) The Village of Glendale Heights is ordered under Section 46 of the Environmental Protection Act to issue general obligation or revenue bonds in the amounts necessary to complete its proposed sewage treatment plant expansion pursuant to permit No. 1970-AB-98 of the Environmental Protection Agency and to thereby abate its pollution of the east branch of the DuPage River.

(4) No additional sewer connections to existing lines shall be made or new sewer lines connected until the proposed addition to the sewage treatment plant is completed and certified as capable of operating within the Rules and Regulations of the Illinois Pollution Control Board. This order applies to any sewer connections or sewer lines which will feed into the Glendale Heights plant, whether or not such connections are within the corporate limits of the Village of Glendale Heights. This moratorium is effective whether or not the Village of Glendale Heights chooses to avail itself of the funding procedures of Section 46.

(5) Within thirty days after the entry of this order, the Village of Glendale Heights shall confer with the Environmental Protection Agency and adopt a compliance schedule for the completion of the sewage treatment facility. The compliance schedule agreed upon by the parties shall be submitted to the Board and, if no objection is made, shall be incorporated as part of the Board's order. Thereafter, the Village of Glendale Heights shall furnish the Agency quarterly progress reports as construction proceeds.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above opinion and order this 17th day of February, 1971.


Regina E. Ryan
Clerk of the Board