

ILLINOIS POLLUTION CONTROL BOARD
November 5, 1981

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 79-35
)
 CHEVY CHASE WATER AND SEWER CO.,)
 VILLAGE OF BUFFALO GROVE,)
 AND THE COUNTY OF LAKE,)
)
 Respondents.)

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by J. Anderson):

This Opinion and Order is the Board's hopefully final exercise of the jurisdiction retained in this matter by the Board's Opinion and Order of February 19, 1981. In that Opinion, Chevy Chase was found to have violated the Act and several Board Rules. This Order, based on information required to be filed in the earlier Order, outlines permissible means for achieving compliance.

On September 24, 1981, the Board ordered Chevy Chase to serve copies of its September 18, 1981 letter/report to all parties, in order to make sure that all parties were sufficiently informed and to allow the parties to file any responses or comments by October 15, 1981.

None was filed by the Village of Buffalo Grove (Buffalo Grove). However, on October 15, 1981, a response was filed by Lake County (County) by Assistant States Attorney Gary Neddenriep. The response included:

1. A statement by the States Attorney that the County agrees to accept ownership, with conditions, of the Chevy Chase Sewer System. It was further explained that a construction grant could be awarded within 6 months if grant funds are obtained and local cost recovery is provided. The States Attorney represents, in part, that "the right of the Village [Buffalo Grove] to consent [within the Village's sphere of influence] under that Agreement allows them to participate in County utility planning, but does not entitle them to arbitrarily withhold their consent when no adverse impact on the Village is shown to exist."

2. A formal Joint Resolution to the Chairman and Members of the County Board from the County's Public Service Committee and its Financial and Administrative Committee authorizing the County Board Chairman to reactivate the Illinois Environmental Protection Agency (Agency) grant for the Chevy Chase project.

3. A formal County resolution reactivating the grant application.

The Board deems this communication as the County's consent pursuant to paragraph 4 of the Board's Order of February 19, 1981, except for the lack of information showing formal agreement by Chevy Chase to the County's conditions for accepting ownership.

The Board deems the lack of affirmative action by Buffalo Grove as denial of its consent, for purposes of this proceeding, pursuant to paragraph 3 of the Board's Order of February 19, 1981.

The Board cannot allow further delay in resolution of this action, filed February 21, 1979 by the Agency.

The Board, as reflected in its Opinion and other Orders (June 25, 1981 and September 24, 1981) in this case, has made every effort to encourage the parties in their efforts to reach an agreement that would accommodate the County's Agreement with Buffalo Grove, achieve the least economically burdensome plan, and maintain consistency with the County's utility planning. However, the Board's overriding concern remains the abatement of the long-term pollution problem. (See Opinion of February 19, 1981).

In its Opinion of February 19, 1981, the Board noted that all parties, including Buffalo Grove, agree that the hookup of Chevy Chase's sewers to the County's regional plant is the least costly option. The Board finds that it is also the most environmentally sound option, in that the record now shows that this option stands the best chance of being implemented in the shortest time. The Board finds that Buffalo Grove's refusal to give its consent is without merit as it pertains to this case, since its refusal was based on annexation matters, not environmental concerns. Lake County's assertion that its interceptors and facilities are capable of accepting a Chevy Chase connection assures the Board that there is no environmental impediment to this option.

However, the Board must note that it also considers the upgrading of the Chevy Chase facility as an environmentally acceptable option. The assumption of the greater cost of this option is of Chevy Chase's own making if it refuses to cooperate with Lake County.

Based on the County's agreement to proceed, the Board orders Chevy Chase to submit to the Board within 90 days a copy, if any, of its written acceptance of the County's plan and conditions for accepting ownership of the Chevy Chase sewer system.

The Board will retain jurisdiction in this matter. However, for purposes of appeal as provided for in Sections 29 and 41 of the Act, the Board certifies that this may be considered to be a final order for those purposes only.

This Supplemental Opinion constitutes the Board's supplemental findings of fact and conclusions of law in this matter.

ORDER

1. Chevy Chase shall continue to comply with paragraph 5 of the Order of the Board of February 19, 1981.

2. Within 90 days of the date of this Order, Chevy Chase shall submit to the Board a copy of its written acceptance, if any, of the County's plan and conditions contained in the Response of County of Lake to Report made by Chevy Chase Water and Sewer Co., filed with the Board on October 15, 1981.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Supplemental Opinion and Order was adopted on the 5th day of November, 1981 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board