

ILLINOIS POLLUTION CONTROL BOARD
August 24, 1978

L. R. WALKER, D.D.S. and)
ROBERT H. NELSON, D.D.S.,)
)
Petitioners,)
)
v.) PCB 78-159
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter comes before the Board on a Petition filed on May 31, 1978, by L. R. Walker, D.D.S. and Robert H. Nelson, D.D.S. for a variance from the relevant provisions of the Stipulation and Proposal for Settlement incorporated into an Order by this Board on March 2, 1978, which prevents Petitioners from connecting with the sewer system of the Round Lake Sanitary District (District). The Environmental Protection Agency (Agency) filed a Recommendation on July 21, 1978, in favor of granting the requested relief provided that Petitioners adhere to certain conditions. No hearing was held in this matter; hearing was waived by the Petitioner.

Petitioners are licensed Dentists who have purchased an unimproved parcel of land in the Village of Round Lake for purposes of constructing a structure containing 2,500 square feet of office space and a parking lot to accommodate approximately 22 cars (Pet. 2, Exh. A). The Petitioners estimate that the offices will discharge only 700 gallons per month consisting of occasional non-sewage discharges from the main holding tank of their vacuum storage system and sewage from two toilettes in the proposed structure (Pet. 2, 3).

On March 2, 1978, this Board in a consolidated proceeding, PCB 75-33 and PCB 75-65, found the District in violation of various water pollution regulations. Specifically, the District was found to exceed the effluent quality limitations of Rule 402, the BOD₅/SS requirements of Rule 404(f), the phosphorus effluent limitation of Rule 407(b) and for operating the treatment facility without a permit in violation of Rule 952 in Chapter 3: Water Pollution Rules. In addition, the Board incorporated provisions of paragraph 23(d) in Stipulation and Proposal for Settlement which prohibited the District from connecting any multiple family dwelling or commercial structure without a specific variance from the Board (Pet. 2, Rec. 2).

The Agency recommends that Petitioners' request be granted as a specific exception to the Stipulation and Proposal for Settlement incorporated into the March 2, 1978, Board Order. This favorable recommendation is made in spite of the discharge monitoring reports and Agency grab samples which indicate that the treatment facility handles loadings well beyond its 1.6 MGD design capacity, that the BOD5/SS concentrations are in excess of the District's 20/25 mg/l NPDES permit limitations, and the discharge from the treatment plant is in continual violation of the applicable ammonia nitrogen and phosphorus effluent limitations (Rec. 2, 3). The Agency does not recommend expansion or improvements for this facility especially since the Round Lake treatment facility is scheduled to be abandoned upon completion of the Fox Lake Regional Treatment Plant at the end of December, 1979 (Rec. 3).

The Agency also notes that the Petitioners had purchased this unimproved parcel and had terminated the existing lease for their dental clinic in Round Lake prior to the Board Order on March 2, 1978. The Petitioners claim that denial of a variance would pre-empt their intentions to practice in Round Lake and force its citizens to seek dental services elsewhere to the possible detriment of health in the community (Pet. 3, 4, Rec. 3).

While it is not the usual practice for this Board to place added burdens on an overloaded treatment facility, the Board recognizes that the hardships in this case facing the Petitioners and the people of Round Lake significantly outweigh any potential impact from a de minimis monthly increase of 700 gallons to the Round Lake facility. Petitioner will be granted a variance from the relevant provisions of paragraph 23(d) in the Stipulation and Proposal for Settlement incorporated into the Board decision in PCB 75-33 and 75-65 (consolidated) to allow connection of all plumbing fixtures described in this Petition to the sewer tributary to the Round Lake treatment plant.

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

ORDER

1. Petitioners, L. R. Walker, D.D.S. and Robert H. Nelson, D.D.S., are hereby granted a variance from the provisions of paragraph 23(d) of the Stipulation and Proposal for Settlement incorporated into an Order issued by the Board in EPA v. Round Lake Sanitary District, PCB 75-33 and 75-65 (consolidated) (March 2, 1978) subject to the following conditions:

- (a) Petitioners shall connect only those fixtures described in the Petition which includes the two toilettes, any accompanying fixtures and the main holding tank to the vacuum storage system and discharge from those fixtures shall not exceed 700 gallons per month.
- (b) The Order in PCB 75-33 and 75-65 (consolidated) shall remain in full force and effect.

2. Within forty-five (45) days of the date of this Order, the Petitioners shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be suspended in the event of judicial review of this variance pursuant to Section 41 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 78-159, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of August, 1978 by a vote of 5-0.

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