

ILLINOIS POLLUTION CONTROL BOARD  
May 10, 1973

ANTHONY STRAUB )  
 ) #73-45  
 )  
 v. )  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

OPINION AND ORDER OF THE BOARD (BY MR. DUMELLE):

A petition for variance was filed February 2, 1973 with the Board, asking permission to connect a 24-unit apartment building not yet constructed, to the sewer system in Fox River Grove. No hearing was held.

Petitioner alleges that 30-34 people would reside in the building and each would discharge 72 gallons per day. Petitioner further alleges that the Environmental Protection Agency agreed to a sewer connection prior to his obtaining a variance from the Village of Fox River Grove in February, 1972. He states that some "\$20,000 in time and money" has been spent to date, to prepare for the construction of the building.

The Village of Fox River Grove, in a letter dated January 18, 1973, admits that its sewage plant is "operating over capacity", but points out that a commercial firm which was a "major polluter" has discontinued operation and that the Straub tie-in would be negligible.

The Environmental Protection Agency recommended denial in its recommendation dated March 28, 1973. No public hearing is mandated because the recommendation was filed more than 21 days after the filing of the variance petition.

The Agency states that no record could be found of the alleged approval by it of the petitioner's proposed sewer connection. The Agency rightfully points out that the new regulations requiring a sewer connection permit for buildings in excess of 15 P.E. were passed on March 7, 1972 (effective April 16, 1972) and that a prior legal opinion as to status would not be binding into the future upon the Board in enacting new regulations.

We accept the jurisdiction of the March 7, 1972 regulations upon the property at question. We point out that almost a year elapsed between March 7, 1972 and February 2, 1973, when the variance petition was filed, which raises questions as to the real urgency of the proceeding.

The Agency verifies the fact of the cessation of discharges to the village sewage plant from the Aluminum Coil Anodizing Corporation and its former deleterious effects. The effluent standard is 30 mg/l BOD<sub>5</sub> and 37 mg/l suspended solids after July 1, 1972. The Fox River, which receives the discharge, has a dilution ratio of 60:1. The design capacity of the plant is 390,000 gallons per day average flow, yet it received 627,000 gallons per day average flow for the 12-month period ending November, 1972.

The effluent data presented by the Agency show that the January 10 and January 31, 1973 readings are well within the 30/37 standard. Most of the suspended solids readings prior to this date (7 of 9) are in excess of the 37 mg/l standard while all 9 BOD<sub>5</sub> readings are below the 30 mg/l standard. These data seem to be not consistent with the hydraulically overloaded status of the plant. Either a remarkable job of operation is being done or the average flows are in error, or the effluent readings are incorrect. We decide this case in May, 1973 with excellent effluent figures recorded in January, 1973, not knowing what has transpired in February, March or April. If further excellent effluents were being achieved then we might not hesitate to grant a variance. But the data are too short in duration to be certain.

We deny the variance without prejudice. Mr. Straub will be able to file again immediately if up-to-date sewage plant effluent data are provided that give us a clearer picture of the actual performance of this supposedly overloaded sewage plant.

An amendment to the petition filed April 16, 1973 provides an undated but apparently recent letter from the Village of Fox River Grove. This letter details the village program to reduce excess infiltration but gives no dates when this program will be completed. A May 2, 1973 supplemental recommendation from the Agency reaffirms the original denial recommendation.

If the effluents from the sewage plant are consistently within standards, then the Agency might wish to reconsider its sewer connection ban originally imposed September 12, 1967. If, however, the present sewer ban is being continued because of raw sewage bypassing during rains, then the Agency should be prepared to so state and document in a new proceeding, should one be filed.

The variance is denied without prejudice.

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

IT IS SO ORDERED.

I, Christian Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on the 10<sup>th</sup> day of May, 1973, by a vote of 4 to 0.

Christian D. Moffett

