ILLINOIS POLLUTION CONTROL BOARD
May 12, 1971

LEAGUE OF WOMEN VOTERS, et al.	)	
	)	
	)	
v.	)	## 70-7, 70-12, 70-13, 70-14
	)	
NORTH SHORE SANITARY DISTRICT	)	

Opinion of the Board on Motion to Reopen (by Mr. Currie):

Our decision in this case was handed down March 31, 1971, ordering the Sanitary District to proceed with its program for abating water and air pollution from its sewage treatment facilities and prohibiting new sewer connections within the District until compliance was achieved. The ban on sewer connections has produced a substantial number of variance requests, most of which we have scheduled for hearing, involving claims of individual hardship. It has also generated the present request by the Waukegan-North Chicago Chamber of Commerce, Lake County Building Trade Council, and Zion-Benton Chamber of Commerce, to intervene in the original case and for a rehearing with respect to the sewer ban.

The motion alleges that because the sewer ban affects persons other than the Sanitary District the Board was required either to notify all persons affected before rendering such a decision or proceed by way of rule-making rather than adjudication. Neither contention has merit. One might just as well argue that all employees and customers, as well as any taxing jurisdiction, must be made parties to a case involving a possible shutdown of an industrial facility for pollution; the proceeding would become impossibly cumbersome. The Board complied fully with the notice requirements of the Environmental Protection Act in connection with the original case. Ample protection for non-parties affected by the decision is afforded by the variance procedure, which many have invoked in this very situation. As for the contention that such a ban can be imposed only in a rule-making proceeding, the order is a means of ensuring compliance with existing laws and regulations that forbid water pollution and limit the contaminants in effluents discharged. As our March 31 opinion explained, the ban is closely analogous to an order, which we typically enter, forbidding any increase in pollutant discharges during the time a violation continues. That the order is important does not mean it must be done in a rule-making proceeding.

As to the question whether the Board should exercise its discretion to reopen the case, we think it more appropriate that issues going to the hardships that might be imposed by the ban be raised in the numerous pending variance cases rather than by reopening the principal case. The question of what remedy to impose throughout the District as a whole has been amply considered and decided by the Board; we do not think the cause of pollution abatement would be well served by litigating it all over again. In cases of individual hardship, as we have indicated in authorizing a number of variance hearings, we are willing to consider facts that have not been presented to us in the original proceeding. The present petitioners are welcome to seek to intervene in variance proceedings in order to make their position clear and to bring the relevant facts to the Board's attention, subject to the Board's rules respecting the orderly conduct of proceedings.

The motion to intervene and to reopen the case is denied. This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan do hereby certify that the above Opinion was approved by the Board on the 12 of May, 1971.