

4/26/91

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of )  
 )  
HOLY NAME HOSPITAL, INC. ) Docket No. II MWTA-90-0105  
 )  
Respondent )

ORDER DENYING CONSOLIDATION

For the reasons stated in its motion of March 19, 1991, respondent here seeks to consolidate this action with the following matters:

IN THE MATTER OF Docket No. II MWTA-90-0104  
HACKENSACK MEDICAL CENTER  
INC.

IN THE MATTER OF Docket No. II MWTA-91-0102  
PASCACK VALLEY HOSPITAL  
ASSOCIATION, INC.

IN THE MATTER OF Docket No. II MWTA-91-0101  
KENNEDY MEMORIAL HOSPITAL  
MEDICAL CENTER, INC.

IN THE MATTER OF Docket No. II MWTA-91-0103  
ENGLEWOOD HOSPITAL

Counsel for complainant in the subject matter opposed the motion for the reasons stated in its opposition served April 19, 1991. Counsel for complainant In the Matter of Englewood Hospital also served its opposition on the same date.

At the outset, it is to be noted that this Administrative Law Judge (ALJ) has had assigned to him, and has jurisdiction over, the subject proceeding, Hackensack Medical Center, Inc., Docket No. II MWTA-90-0104 and Englewood Hospital, Docket No. II MWTA-91-0103. The other two matters are on the docket of Honorable Daniel M. Head. Accordingly, the undersigned ALJ will only address the three matters before him.

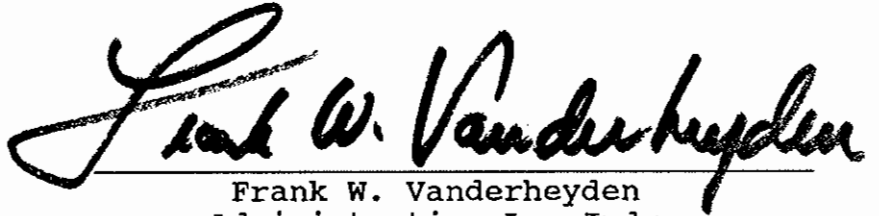
The Rules of Practice, 40 C.F.R., § 22.12(a), hereinafter Rule, provide, in pertinent part, as follows:

(a) Consolidation. The Presiding Officer may . . . consolidate . . . where (1) There exist common parties or common questions of fact or law, (2) consolidation would expedite and simplify consideration of the issues, and consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

The facts and law, as reflected in the pleadings, are to be laid alongside the Rule, and a decision whether to consolidate or not rests with the informed discretion of the ALJ.

The argument for consolidation is not persuasive; the disadvantages associated with consolidation outweigh greatly any benefits perceived by respondent. Turning to the Rule, common parties do not exist and there is dissimilarity in the facts between the cases. Further, consolidation would not expedite or simplify consideration of the issues. Rather, it would result in delay, and foster a confused, tangled-mangled proceeding. To add to this exquisite difficulty, consolidation would adversely affect complainants.

IT IS ORDERED that respondent's motion for consolidation be  
DENIED.



Frank W. Vanderheyden  
Administrative Law Judge

Dated: \_\_\_\_\_

April 26, 1991

IN THE MATTER OF HOLY NAME HOSPITAL, INC., Respondent,  
Docket No. II-MWTA-90-0105

Certificate of Service

I certify that the foregoing Order, dated 4-26-91,  
was sent this day in the following manner to the below addressees:

Original by Regular Mail to:      Ms. Karen Maples  
   Regional Hearing Clerk  
   U.S. Environmental Protection  
   Agency, Region II  
   26 Federal Plaza  
   New York, NY 10278

Copy by Regular Mail to:

Attorney for Complainant:      Marlene Tucker, Legal Advisor  
(Holy Name Hospital and      Office of Regional Counsel  
Hackensack Medical      U.S. EPA, Region II  
Center, Inc.)      26 Federal Plaza  
   New York, NY 10278

Attorney for Complainant:      Robert G. Hazen, Esquire  
(Englewood Hospital Assoc.)      Office of Regional Counsel  
   U.S. EPA, Region II  
   26 Federal Plaza  
   New York, NY 10278

Attorney for Respondent:      Charles R. Melli, Jr., Esquire  
   Melli & Wright  
   West 115 Century Road  
   Paramus, New Jersey 07652

Marion Walzel  
Marion Walzel  
Secretary

Dated: April 26, 1991