

ILLINOIS POLLUTION CONTROL BOARD

August 21, 1980

KRAFT, INC.,)
)
 Petitioner,)
)
 v.) PCB 80-42
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

MR. W. GERALD THURSBY AND MS. JOHNNINE BROWN HAZARD, ROOKS, PITTS, FULLAGAR AND POUST, APPEARED ON BEHALF OF THE PETITIONER.

MR. STANLEY S. PARSONS AND MS. MARY DRAKE, ATTORNEYS AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by D. Satchell):

This matter comes before the Board upon a petition for variance filed March 5, 1980 by Kraft, Inc. (Kraft). The petition requests a variance from Rules 201, 301 and 501 of Chapter 9: Special Waste Hauling Regulations (Rules) as these rules pertain to disposal of waste food in drums and sewage pretreatment sludge from Kraft's Champaign Plant. On May 9, 1980 the Environmental Protection Agency (Agency) recommended that the variance be denied. On June 2, 1980 a hearing was held in Champaign. No members of the public attended and the Board has received no public comment.

Kraft's Champaign Plant is situated in Champaign, Champaign County. Major products include oil, salad dressings, mayonnaise, pasta and processed cheese products (R. 7). The plant has an output of more than 650 million pounds per year of food products. It employs more than 2000 persons with an annual payroll in excess of \$35 million (Pet. 2).

Process wastewater from the plant is subjected to pretreatment prior to discharge to sewers tributary to the Northeast Plant of the Urbana-Champaign Sanitary District (District). A surge tank provides flow equalization. Grease is then removed for sale as soap stock. The wastewater then enters an aeration basin prior to mixture with untreated sanitary wastewater followed by discharge to the District's sewers. Sludge from the aeration basin is discharged to an aerobic digestion unit. After digestion the sludge is hauled by tanker truck to three sludge lagoons operated by the District (R. 10). The tankers hold 5000 gallons. There is an average of three loads per day or 700 to 800 loads per year (R. 11).

These lagoons were constructed and are operated by the District on its property under contract with Kraft (R. 12; Ex. 1). After further treatment, the sludge is applied to land along with other sludge produced by the District (R. 21).

The other wastestream involved in this proceeding is described as "food waste." This consists of discarded material which is captured as part of the cleanup operation of equipment and pipelines. Sometimes it contains broken glass from jam-ups on the line (R. 21). This material is placed into fifty-five gallon cardboard or steel drums (R. 23). It is hauled by an independent hauler to the multi-county Landfill in Villa Grove (R. 24, 36). There is one load per day consisting of about thirty barrels (R. 23).

In requesting a variance Kraft specifically states that it does not admit that its waste is special waste under Chapter 9 (Pet. 4, 7). [Celotex Corp. v. PCB, 65 Ill. App. 3d 776 (4th Dist. 1978)]. Kraft requests in the alternative to a variance a declaration that Chapter 9 is inapplicable to its waste streams.

"Special waste" includes "hazardous waste," "industrial process waste" and "pollution control waste" (Rule 103). Wastewater treatment plant sludge is specifically included in the definition of "pollution control waste." Kraft contends, however, that its sludge is produced by a pretreatment plant as defined by Rule 104 of Chapter 3: Water Pollution (R. 16). There is no specific incorporation of Chapter 3 definitions into Chapter 9. Kraft has offered no explanation of why pretreatment sludges as a class should be treated differently from other treatment plant sludges for purposes of Chapter 9. The Board holds that, as used in Chapter 9, the term "wastewater treatment plant sludges" includes sludges produced by pretreatment plants.

The Agency contends that the food waste is also "special waste" since it is "industrial process waste."

"INDUSTRIAL PROCESS WASTE" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the manufacture of a product or the performance of a service which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. (Rule 103)

The food waste is produced as a result of the manufacture of Kraft's products. It has a consistency like jelly or gelatin and is contained in barrels (R. 23, 34). The Agency regards it as a

liquid waste (R. 46, 54). Liquid wastes have inherent properties which make their disposal in a landfill difficult to manage by normal means (R. 25, 76). If the liquid to solid ratio is too high there will be difficulties with moving equipment at the fill face and leachate problems may result (R. 50, 58). It is more difficult to move barrels around the landfill than ordinary household waste (R. 38). Barrels must always be handled with care unless the operator knows that the contents are not hazardous (R. 70).

The Board finds that both the sludge and food waste are special wastes. Kraft has offered evidence that in its particular case the wastes are being handled without damage to the environment. However, in adopting Chapter 9 the Board intended to set up a permit and manifest system to ensure that special wastes were properly handled (Rule 101). It was not the Board's intent that Chapter 9 extend only to special wastes whose handling is improper.

Rule 201 requires that any person hauling special waste obtain a permit. The food waste is hauled by an independent hauler (R. 26; Pet. 6). This person is not identified and is not a party to this action. Since Kraft has demonstrated no need for it, the variance from Rule 201 for the food waste will be denied.

Rule 501 provides for special waste manifests. Rule 301 proscribes delivery of the waste without a manifest. Rule 302 proscribes acceptance of the waste without a manifest. Neither the District nor Waste Concepts, Incorporated, owner of the Villa Grove Landfill, has been made a party to this action. The actions contemplated by Kraft under the requested variance could cause these persons to violate Rule 302. They would have to be joined or obtain variances on their own for the Board to grant a meaningful variance to Kraft. Although this alone necessitates denial of the variance, the Board will further discuss the merits.

Kraft has requested a complete variance from the Chapter 9 requirement. Its cost analysis, however, centers on the costs associated with the requirements of separate manifests for each load (R. 17, 25). This would not be sufficient to justify an award of a variance from the permit requirement of Rule 201 for the sludge Kraft itself hauls, or complete exemption from the reporting requirements of Rule 501. Furthermore, Kraft has offered no plan for eventual compliance with Chapter 9 [Procedural Rule 401(a)(6) and Section 36(b) of the Environmental Protection Act (Act)].

Kraft is currently complying with Chapter 9 with respect to the food waste, but not the sludge (R. 29). Kraft estimates the annual cost of compliance at \$8500 for the sludge and \$8800 for

the food waste (R. 17, 26). In adopting Chapter 9 the Board recognized that some expenses would be imposed on those affected. Kraft has not demonstrated that these expenses would impose an arbitrary or unreasonable hardship upon it. The variance is denied.

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

ORDER

Kraft, Inc. is denied a variance from Rules 201, 301 and 501 of Chapter 9: Special Waste Hauling Regulations for sludge from the sewage pretreatment plant and food waste at its Champaign Plant.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 21st day of August, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board