

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1976

CITY OF KEWANEE,)
)
 Petitioner,)
)
 v.) PCB 75-466
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter is before the Board on a Petition for Variance filed December 11, 1975 by the City of Kewanee, and a Recommendation filed March 4, 1976 by the Environmental Protection Agency (Agency). No hearing was held in this matter.

Kewanee presently operates an existing solid waste management site approximately one mile from its city limits, in Henry County, Illinois. At the same time, Kewanee is developing a new 53-acre site on adjacent property. The City has no operating permit for the existing site, but is developing the new site under an Agency Development Permit issued on July 12, 1974.

The Petition in this case seeks permission to continue operation of the existing site, without a permit, for 180 days pending the completion of development at the new site. At the conclusion of the Variance period, operations are to be shifted to the new site. Although inartfully drawn, the Petition apparently seeks Variance from Rule 202(b)(1) of Chapter 7: Solid Waste, of the Board's Rules and Regulations.

Kewanee's compliance plan in this Variance Petition consists of the following:

1. The City is attempting to correct the many violations noted in Agency inspections at the existing site.
2. The City is continuing to work on development of the new site in conformity with the specific requirements contained in the July, 1974 Development Permit for the site.
3. At the conclusion of the Variance period, operations on the site will cease.

By way of hardship, Kewanee merely states that if it is not allowed to continue operation of the existing site without the required permit, its solid waste would have to be transported to the Henry County Landfill, near Atkinson, Illinois. Kewanee implies that this might interfere with development of its new site, without citing specifics. It is unclear from the Petition whether use of the Henry County landfill could constitute a hardship or a mere inconvenience.

It would appear that at least some of the alleged hardship (if any) is self-imposed. We note that if Kewanee were granted the entire 180 days requested in its Petition, it would have had more than 23 months after issuance of the Development Permit for its new site to accomplish the actual development. Approximately 20 months have already passed since issuance of the Development Permit.

Based on these facts, we see no reason sufficient to support a grant of the requested Variance. However, we feel that it would place an uncalled for hardship on the City to require that it immediately cease activities at the existing site. To protect the City from enforcement should it fail to immediately stop operations, we shall grant a Variance for 30 days from the date of this Opinion and Order. In light of our often repeated findings concerning the necessity and importance of the operating permit system for the protection of the environment, and the paucity of facts before us, we will grant no more.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Petitioner City of Kewanee be granted a Variance from the operating permit requirement of Rule 202(b)(1) of Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations from December 11, 1975 to April 11, 1976, subject to the following conditions:

1. Petitioner shall at all times operate its solid waste management site in compliance with all other applicable regulations in Chapter 7: Solid Waste.
2. Petitioner's present landfill site shall cease accepting refuse of any kind within 30 days of the date of this Order and said site shall be properly closed and covered in conformity with the applicable rules of Chapter 7: Solid Waste, within ninety (90) days of the date of this Order.

3. Petitioner shall, within twenty-one (21) days of the date of this Order, execute and forward to:

Illinois Environmental Protection Agency
Manager, Land Enforcement Section
Division of Land/Noise Pollution Control
2200 Churchill Road
Springfield, Illinois 62706

a Certificate of Acceptance in the following form:

I, (We), _____ having read the Order of the Illinois Pollution Control Board in case No. PCB 75-466, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

Mr. James Young dissents.
Mr. Jacob Dumelle concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11th day of March, 1976, by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board