

ILLINOIS POLLUTION CONTROL BOARD
March 25, 1976

LEWIS UNIVERSITY,)
)
) Petitioner,)
)
) v.) PCB 75-504
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

The matter before us here is the third Variance Petition concerning a sewage treatment plant operated by Petitioner Lewis University, a private university in Will County, Illinois. In the instant case Lewis University asks that the relief granted in PCB 74-478, 16 PCB 137 (March 13, 1975), from the requirements of Rule 404(f) of the Board's Water Pollution Regulations (BOD and Suspended Solids) be extended until December 31, 1976. (The University's previous Variance expired on December 31, 1975.) PCB Regs., Ch. 3: Water Pollution, Rule 404(f) (1972). No hearing was held in this matter; a Recommendation from the Environmental Protection Agency (Agency) was received on February 9, 1976.

Lewis University's first Variance Petition was filed on November 8, 1973. In that case, PCB 73-475, 11 PCB 105 (Jan. 31, 1974), the Board found that it would indeed be a hardship to require that Lewis University upgrade its sewage treatment plant to provide tertiary treatment so that it could meet the applicable 4 mg/l BOD₅ and 5 mg/l suspended solids requirements of Rule 404(f). (The operations, capacity and performance of the University's sewage treatment plant are fully described in PCB 73-475 and PCB 74-478, and need not be reiterated here.) Based on that finding, the Board approved the University's plan to disannex from the City of Lockport, which was allegedly unable to provide sewage treatment for the University, and to annex to the Village of Romeoville, which had agreed to provide such treatment if annexation could be accomplished. The University's suit against Lockport for disannexation was at that time pending in the Circuit Court. The Variance in PCB 73-475 was granted until December 31, 1974, with the expectation that the disannexation suit would be settled expeditiously.

In its Petition in PCB 74-478, Lewis University asked for further extension of its variance based on delays in trial court adjudication of its disannexation from Lockport. The Board again found the University's hardship, when balanced against the relatively good performance of its sewage treatment plant, to be sufficient for the grant of a Variance, this time until December 31, 1975.

In the instant Petition (PCB 75-504) Lewis University noted that the Circuit Court of Will County had allowed the University's disannexation petition on April 3, 1975. However, the City of Lockport had appealed to the Appellate Court (3rd District); that appeal was denied on September 9, 1975. Lockport's Petition for Rehearing was also denied by the Appellate Court on October 7, 1975. Subsequently, the City of Lockport filed a Petition for Leave to Appeal with the Supreme Court of Illinois.

The Agency Recommendation in this matter, received Feb. 9, 1976, again supports a further grant of the University's variance, until December 31, 1976. As conditions to such a grant, the Agency asked that the Board require that Lewis University retain a properly certified operator for its treatment plant, for so long as the plant remains functional and, as in the prior cases, that the University be required to make all reasonable effort to further reduce concentrations of BOD and suspended solids in its effluent. The Agency also asked for conditions requiring early connection of the University to the Village of Romeoville, should the University's disannexation suit prevail in the Supreme Court, or the immediate upgrading of its sewage treatment plant, should its suit not prevail.

These last conditions, as suggested in the Agency Recommendation, are no longer applicable. We take notice of the fact that the Illinois Supreme Court has denied the City of Lockport's Petition for Leave to Appeal. Lewis University, et. al v. City of Lockport, Docket No. 47994 (January 23, 1976).

The hardship found in the two earlier Opinions remain. The University's compliance plan now appears to be finally ready for immediate implementation. The Agency Recommendation notes that Lewis University has, as required in the previous cases, made every reasonable effort under the preceding variances to reduce the BOD and suspended solids concentration in its effluent. It had additionally made the reports required under those variances. In addition, for the months of April through December, 1975, the University's average BOD₅ and suspended solids concentrations were 12 and 10 mg/l respectively (Rec., p.5).

Balancing this performance of the University's sewage treatment plant against the continuing hardship, in light of an acceptable compliance plan, we shall again grant the requested Variance. The Order will reflect our expectation that the University will immediately commence implementation of its compliance plan, and that this matter may thus be resolved without further need of Variance relief.

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 Lewis University be granted a Variance from Rule 404(f) of Chapter 3: Water Pollution, of the Pollution Control Board's Rules and Regulations for the period December 31, 1975 to and including December 31, 1976, subject to the following conditions:

1. Petitioner shall retain a properly certified treatment plant operator for its sewage treatment plant for so long as such plant remains functional.
2. Petitioner shall continue to make all reasonable efforts to reduce the concentrations of BOD₅ and suspended solids in the effluent from its sewage treatment plant.
3. Petitioner shall, within ninety (90) days of the date of this Order, apply to the Illinois Environmental Protection Agency for all permits necessary for the construction of any facilities needed to connect its present sewage system to the facilities of the Village of Romeoville.
4. Petitioner shall commence construction of all facilities necessary for the connection of its present sewage system to the facilities of the Village of Romeoville, under appropriate Agency permits, within one hundred eighty (180) days of the date of this Order.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 25th day of March, 1976, by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board