

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1984

IBP, INC.,)
)
 Petitioner,)
)
 v.) PCB 84-143
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

DAVID A. COPELAND, SENIOR COUNSEL, APPEARED FOR THE PETITIONER;
E. WILLIAM HUTTON, ATTORNEY-AT-LAW, APPEARED FOR THE RESPONDENT;
JOHN G. AMES, ATTORNEY-AT-LAW, APPEARED FOR THE OBJECTOR.

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a petition and amended petition for extension of variance filed September 17, 1984, and September 27, 1984, respectively. IBP, Inc. ("IBP") requests that the variance and interim effluent limitations set in PCB 82-131 for total suspended solids (TSS) and biochemical oxygen demand (BOD₅) be extended for an additional 270 days or until its new wastewater treatment system achieves proper operation following start-up, whichever occurs first. On October 31, 1984, the Illinois Environmental Protection Agency ("Agency") filed a recommendation that the extension of variance be granted. On November 1, 1984, an objection to any further delays in compliance by IBP was filed by the Rock River Valley Association ("RRVA"). Hearing was held on December 17, 1984. John G. Ames, president of the RRVA, appeared and questioned the IBP representative about progress towards compliance at the Joslin facility.

IBP owns a beef slaughter and processing plant located near Joslin in Rock Island County. IBP is in the process of expanding both the slaughter and processing capacity at this facility. At present, 2,500-2,600 animals are slaughtered daily. IBP has refrained from processing activities during the variance, pending the completion of their expanded and updated water treatment system. Petitioner employs approximately 400 people and uses approximately 1 million gallons per day (MGD) of water from its own wells. NPDES Permit No. IL 0003913, issued April 23, 1980, remains in effect (Rec. p. 2). When expansion is completed, IBP intends to employ about 1,450 people.

IBP received a variance on January 27, 1983, in IBP, Inc. v. Illinois Environmental Protection Agency, PCB 82-131, 51 PCB 59, from 35 Ill. Adm. Code 304.120(a) which allowed them to operate during the expansion process. The Board set the following interim effluent limitations:

	<u>Interim Limit</u>	<u>NPDES Permitted Effluent Limits</u>
BOD ₅	45 mg/l avg. 90 mg/l max.	25 mg/l avg. 50 mg/l max.
TSS	90 mg/l avg. 130 mg/l max.	25 mg/l avg. 62 mg/l max.

During the variance, IBP discharged effluent from its wastewater treatment system intermittently and only violated interim limitations once, for BOD₅ (Rec., p. 2). Variance ended on July 1, 1984. Since that date, IBP has not discharged any effluent to the Rock River, but has stored all wastewater in the system's storage /aeration lagoons pending the outcome of this petition (Am. Pet. p. 1-2).

As part of the expansion, IBP has upgraded the original wastewater treatment facilities, which were constructed in 1970. The original facilities consisted of two anaerobic lagoons (2.03 acres each), an aerated cell (.59 acres), and three aerobic lagoons (41.37, 28.49 and 11.24 acres), all operated in series. The system discharges effluent to the Rock River. 51 PCB at 60. IBP was granted a permit by the Agency on September 29, 1983, to construct improvements to the wastewater treatment facilities. Construction began in the spring of 1984. Petitioner added a third anaerobic lagoon, abandoned the aerated cell and aerobic lagoons, and constructed a secondary treatment system consisting of an oxidation ditch with an intra-channel clarifier. The new treatment system, when fully operational, is expected to achieve compliance with all applicable effluent standards (Pet., p. 2).

Start-up of the new system was originally planned for August 1, 1984. However, due to an unusually wet spring in the Joslin area, construction was delayed because installation of dewatering wells at the construction site was necessary. Additional time was lost because of delays in shipments from an equipment manufacturer. As a result, start-up of the new system was delayed until mid-October (Pet., p. 2-3). During this period, IBP has been storing interim quality effluent and the aerobic/storage lagoons are near capacity (Am. Pet. p. 1-2).

IBP requests that the variance and interim effluent limitations be extended 270 days from the date of their original petition, September 17, 1984. IBP asserts that a minimum of three months is required after start-up of the new treatment system until effluent of a quality that will meet Board and NPDES permit standards is produced. In addition, there are factors which, in IBP's opinion may extend the start-up period beyond three months.

First, because the new treatment system employs an innovative technology, additional time may be required due to unforeseen technical problems that may arise. Second, start-up will occur during cold weather when systems of this type do not perform as efficiently. It may take longer during cold weather for the bacterial seed from the local municipal sewage plant to become acclimated to the new waste stream from the packing house. Finally, additional time will be required if a significant quantity of off-grade effluent is discharged into the storage/ aeration ponds. The reason is that an extended time in these ponds will be necessary to treat this effluent down to applicable effluent limits prior to discharge (Am. Pet. p. 2-3). In any event, the aeration/storage lagoons have a limited capacity at this time and start-up will require eventual displacement of existing interim quality effluent into the Rock River.

IBP, in their amended petition, proposed an alternate time limit for the variance extension based on actual performance of the system. IBP requests that the variance and interim limitations be extended to the date when the modified waste treatment facility reaches full operational capacity as evidenced by production of effluent which meets all state effluent standards and the limits in NPDES permit No. IL0003913 for a period of 30 consecutive days, but in any event, no more than 270 days from the date of the original petition. The Agency recommends variance until April 1, 1985, or the end of any calendar month during which discharges meet the permit standards for BOD₅ and TSS, whichever occurs first.

The Board finds that denial of this variance request would impose an unreasonable hardship on IBP, local cattle feeders, and IBP employees when balanced with the environmental impact. The hardship to the Petitioner resulted from delays in completing its oxidation ditch wastewater treatment plant. The delay was caused by adverse weather and delivery delays, both of which were beyond IBP's control. The Board, in PCB 82-131, found that granting variance and imposing interim limitations would result in minimal environmental impact, 51 PCB at 61. A 270 day extension of this variance, which is necessary for IBP to achieve compliance, does not significantly change this conclusion. As in PCB 82-131, the interim limitations are within federal limitations.

The Board will grant variance until June 14, 1985, or until IBP's facility reaches full operational capacity, as evidenced by production of effluent which complies with the Board and NPDES permit limitations, whichever occurs first. While this time period may be more than will actually be required, the alternate time period based on actual performance provides an adequate safeguard against unnecessary delays in compliance. Additionally, IBP has shown good faith in proceeding expeditiously towards compliance. The Board will condition variance on this continued conduct. IBP must continue to take all reasonable measures to ensure that no odors will escape that may affect health or interfere

with nearby residents enjoyment of life or property. Therefore, IBP must continue the practice of maintaining a complete grease cover on the anaerobic lagoons.

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

ORDER

Petitioner IBP, Inc. is granted a variance from 35 Ill. Adm. Code 304.120(a) for its Joslin beef slaughter and processing plant subject to the following conditions:

1. This variance shall expire on June 14, 1985, or at the end of any 30 consecutive day period during which discharges meet the standards for BOD₅ and TSS set forth in NPDES permit No. IL0003913⁵, whichever occurs first.
2. Petitioner's discharges shall meet the following interim limitations:
 - BOD₅ - 45 mg/l 30 day avg., 90 mg/l daily max.
 - TSS - 90 mg/l 30 day avg., 130 mg/l daily max.
3. As expeditiously as is practicable, IBP shall achieve full operational status of its upgraded treatment facility. In the interim, the existing facilities shall be operated and maintained in the best manner practicable.
4. IBP shall take all reasonable measures to ensure that no odors will escape which may be injurious to the health of, or unreasonably interfere with the enjoyment of life or property of, nearby residents. Such measures shall include maintaining a complete grease cover on the anaerobic lagoons.
5. Within 45 days of the date of this Order, IBP, Inc. shall execute a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. Said Certification shall be submitted to the Agency at 2200 Churchill Road, Springfield, Illinois 62706. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We) _____, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control board in PCB 84-143, December 20, 1984.

Petitioner

Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of December, 1984 by a vote of 5-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board