

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1986

KABLE PRINTING COMPANY,)
)
 Petitioner,)
)
 v.) PCB 85-57
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by W. J. Nega):

This matter comes before the Board on a petition for variance filed on April 30, 1985 by the Kable Printing Company (Company) requesting a one-year variance from 35 Ill. Adm. Code 304.120 as it pertains to the effluent concentration limits for five-day biochemical oxygen demand (BOD) newly set by its reissued NPDES Permit #IL0003972 for outfall 001a to allow time for the construction of a sewer extension to connect its wastewater pretreatment discharge into the Village of Mount Morris' (Village) municipal sanitary sewer system.

The Petitioner's prior permit had no effluent concentration limits for BOD, and a one-year variance is requested to allow the Company sufficient time to construct the necessary improvements in order to come into compliance. (See: Exhibits A, B, and N of the Company's September 25, 1985 amended variance petition).

On May 2, 1985, the Board entered a "more information" Order which requested additional information and clarification of certain language in the Company's initial variance petition.

On June 20, 1985, the Petitioner filed an Amended Variance Petition in response to the Board's May 2, 1985 "more information" Order.

On June 27, 1985, the Board entered an Order which noted that the Petitioner's amended variance petition had failed to address all of the informational deficiencies delineated in the Board's May 2, 1985 Order and required that a further amendment be filed within 45 days.

However, the Petitioner failed to file a further amended petition within the appropriate time period.

Accordingly, on September 5, 1985, the Board entered an Order which dismissed the Company's variance request for failure to file the requisite amended petition.

On September 25, 1985, the Company filed a Motion for Reconsideration of the Board's September 5, 1985 dismissal Order, along with a further amended variance petition (Pet.). In support of its motion, the Company stated that it had not responded to the Board's June 27, 1985 Order because it had not received the Order "due to apparent mail problems".

On October 10, 1985, the Board granted the Company's motion for reconsideration and reinstated this action.

The Petitioner has waived its right to a hearing and no hearing has been held in this matter. On October 23, 1985, the Illinois Environmental Protection Agency (Agency) filed its Recommendation which recommended that a variance be granted, subject to certain specified conditions.

The Kable Printing Company, which has been in business for over 87 years, owns and operates a rotogravure and offset printing plant in the rural community of the Village of Mount Morris, Illinois which employs about 600 people. (Pet. 1). The Petitioner's wastewater treatment facilities include a chrome reduction tank, a holding tank for polymer addition, two batch settling tanks, a pH neutralization tank, and a sludge filter press. (Rec. 3).

The Company has ascertained that various materials which are used in the etching, re-etching, and cleaning of its copper-plated rotogravure cylinders contribute to BOD in its wastewater. These materials are: acetic acid, isopropyl alcohol, ethyl acetate, gelatin, staging lacquer, hydrocarbon-based cleaners, and ferric chloride. (Pet. 1; see: Exhibit D).

At the present time, sanitary wastewater from the Petitioner's printing plant discharges to the Village's sewer system and all treated process wastewater, boiler blowdown, non-contact cooling water and storm water runoff discharges from outfall 001a pursuant to NPDES Permit #IL0003972 to a stream which is an unnamed tributary of Pine Creek, which leads to the Rock River, which is a tributary of the Mississippi River. (Pet. 1; see: Exhibit J). The Company discharges from three outfalls: 001a (which contains process water and is the subject of the instant variance petition); 001c (which contains the east boiler blowdown); and 001d (which contains the west boiler blowdown). (Rec. 3).

The Petitioner discharges about 60,000 gallons per month of pretreated wastewater in eight to ten batches. Quality analyses precede each discharge of wastewater which contains heavy metals and BOD. The Company recycles the entire batch for further treatment if its analyses indicate incomplete or inadequate treatment. (Rec. 3). Although the Company's treatment of heavy metals enables it to ordinarily meet the effluent limitations for such heavy metals, its treatment system is presently not

physically capable of removing BOD. (Pet. 1; see: Exhibits E, F, & G).

The Company is authorized to discharge from outfall 001a pursuant to its NPDES Permit #IL0003972, which was reissued on March 29, 1985. The Agency placed a new condition in the reissued NPDES Permit which imposed the following limitations for BOD: 30 mg/l on a 30-day average and 60 mg/l on a daily maximum. (Rec. 3). Because the Petitioner's prior permit had no effluent concentration limits set for BOD, the Company has not previously noted or routinely analyzed the presence of this parameter and currently has no facilities to treat its wastes for BOD removal. (Pet. 2; Rec. 3). Accordingly, the Petitioner is presently unable to immediately comply with the new condition in its reissued NPDES Permit until additional facilities are constructed or until arrangements can be made with the Village of Mount Morris to accept pretreated heavy metals wastewater for BOD treatment at the Village's facility. (Pet. 2).

In considering the various alternatives available to it, the Company has conducted pilot studies pertaining to the feasibility of in-house treatment of BOD including aeration tests and chemical treatment. (Pet. 2; see: Exhibits H & I). However, the Petitioner's tests and pilot studies have indicated that in-house treatment methods are not adequate for reduction of BOD to authorized NPDES Permit limit levels. (Pet. 2). Therefore, the Company has formally requested the Village to accept the pretreated wastewater and the Village has agreed to accept the additional flows provided that all plant existing sewer drains be connected for a single point discharge into the Village's sanitary sewer. (Pet. 2; see: Exhibits J & K).

In furtherance of this sewer connection project, the Company has entered into a contract with a firm of consulting engineers to provide full project engineering and planning at a projected total cost of \$68,100. (Pet. 2; see: Exhibits L & M). It is anticipated that the sewer extension will consist of 30 feet of ten inch sewer; 1,067 feet of eight inch sewer; 213 feet of six inch sewer; and 67 feet of six inch force main with the requisite appurtenances. (Rec. 2). Under the Petitioner's compliance plan, all wastes except cooling water will be discharged into the Village's municipal sewer system.

The Village of Mount Morris owns and operates treatment facilities which include preliminary treatment, an enclosed trickling filter, a primary clarifier, two secondary clarifiers, two gravity sand filters, two 2-stage biodiscs, and an aerated chlorine contact tank along with excess flow and sludge digestion. Because the Village's treatment facilities have a design average flow of 500,000 gallons per day, the Agency has concluded that the Village's municipal treatment plant has sufficient capacity to accept the Company's wastewater pretreatment discharge into the Village's sanitary sewer system. (Rec. 4). Moreover, the Agency has indicated that,

after further treatment by the Village's facilities, pretreatment wastes originating from the Petitioner's operations should have no adverse environmental impact upon ultimate discharge. (Rec. 4).

Since May 30, 1985, the Company has been making steady progress in following its compliance schedule, in that it already has: (1) completed its negotiations with the Village of Mount Morris; (2) completed the necessary engineering studies, engineering design work and specifications; (3) obtained the requisite Agency permit; (4) awarded the sewer connection construction contract; and (5) started construction of the project on September 3, 1985. (Pet. 2). The compliance schedule indicates that the construction of the necessary pretreatment facilities is expected to be completed on, or about, October 30, 1985. (Pet. 2). The Village of Mount Morris will begin accepting the Petitioner's effluent discharges as soon as the construction is completed. (Pet. 2; see: Exhibit N).

The Petitioner has contended that the granting of the requested variance will result in a negligible environmental impact since "the discharge has been ongoing for a number of years with no apparent significant adverse impact to the receiving stream". (Pet. 2).

The Agency expects the environmental impact of the Petitioner's effluent discharges to be minimal and agrees that "in this particular case, because of the small flow of process water and the large flow of cooling water, no significant environmental impact will result during the term of the variance". (Rec. 2). The Agency also notes that the Company will continue its customary treatment and emphasizes that the Petitioner's discharge will not differ qualitatively from prior discharges before the imposition of the BOD limitation in its reissued NPDES Permit. (Rec. 2).

The Agency has therefore concluded that compliance with the applicable BOD limits in the Petitioner's reissued NPDES Permit would impose an arbitrary or unreasonable hardship upon the Kable Printing Company. (Rec. 1-2). The Agency has stated that there are no federal regulations which would preclude the granting of the requested variance and has indicated that the "Petitioner has shown good faith in seeking to construct a sewer connection and has not delayed in those efforts". (Rec. 2-4). Accordingly, the Agency has recommended that the Board grant the Petitioner a variance from 35 Ill. Adm. Code 304.120 as it pertains to BOD, subject to specified conditions. (Rec. 1-4).

In its Recommendation, the Agency has correctly enunciated the principle that "the duration of the variance need not exceed the duration of construction" and has appropriately concluded that "once Petitioner is connected to the Village's sewer system, the variance ought to lapse". (Rec. 4). However, as a practical matter, it is unclear from the record whether construction was

completed on schedule on October 30, 1985, or whether some unforeseen delays, as are common in construction projects, may have occurred. The Agency's Recommendation, which was promptly filed on October 23, 1985, (i.e., seven days before the scheduled completion of construction), sheds no light on this matter and no supplemental legal documents were filed to indicate that construction was, in fact, completed. Thus, the exact date that the sewer connection was completed (or sufficient facts to indicate when completion will occur, if it has not already happened) is not in the record. Accordingly, the Board will allow the Petitioner some leeway and will impose a condition in its Order that the variance shall commence on March 29, 1985 and expire upon completion of the sewer connection, but in no event shall continue later than April 30, 1986.

Similarly, the Agency has not recommended a date on which the variance is to begin, so the Board will assume that an appropriate starting date will be from the time that the Petitioner's NPDES Permit was reissued on March 29, 1985 containing the new condition imposing specific BOD limitations.

The Board finds that denial of the variance would impose an arbitrary or unreasonable hardship upon the Petitioner. The Board will therefore grant the Petitioner a variance from 35 Ill. Adm. Code 304.120 as it pertains to the effluent concentration limits for BOD, subject to specified conditions.

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

ORDER

1. The Petitioner, the Kable Printing Company, is hereby granted a variance from 35 Ill. Adm. Code 304.120 as it pertains to the effluent concentration limits for BOD set by its reissued NPDES Permit #IL0003972 for outfall 001a to allow time for the construction of a sewer extension to connect its wastewater pretreatment discharge into the Village of Mount Morris' municipal sanitary sewer system, subject to the following conditions:

- a) This variance shall commence on March 29, 1985 and expire upon completion of the sewer connection, but in no event shall continue later than April 30, 1986.
- b) The Petitioner shall request from the Agency a modification of its NPDES Permit within 30 days of the completion of construction.
- c) The Petitioner shall notify the Agency, in writing, within five days of the completion of construction. This written notification shall be sent to:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
Springfield, Illinois 62706

Attention: Compliance Unit

d) The Petitioner shall continue to monitor and sample its outfalls as required by its NPDES Permit #IL0003972.

2. Within forty-five days of the date of this Order, the Kable Printing Company shall execute and forward to Mr. William D. Ingersoll, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any time period this matter is being appealed. The form of this certificate shall be as follows:

CERTIFICATION

The Kable Printing Company hereby accepts and agrees to be bound by all the terms and conditions of the Order of the Illinois Pollution Control Board in PCB 85-57, dated January 9, 1986.

Kable Printing Company

By: 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 7th day of January, 1986 by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board