

ILLINOIS POLLUTION CONTROL BOARD
September 27, 1990

BRIAN J. PETER,)
)
 Complainant,)
)
 v.) PCB 89-151
) (Enforcement)
)
 GENEVA MEAT AND FISH MARKET and)
 GARY PIKULSKI,)
)
 Respondent.)

ORDER OF THE BOARD (by R. C. Flemal):

On September 17, 1990, Respondent filed a motion for additional time to submit a report to the Board to demonstrate compliance with the applicable Board noise regulations. By Board Order issued August 30, 1990, the report was due to be filed not later than September 15, 1990. Respondent requests until November 15, 1990 to file the report. As reason for the request, Respondent claims inability to obtain the report within the time period allowed by the Board.

On September 18, 1990, Complainant filed an objection to Respondent's motion, stating that Respondent has received extensions of time on July 3 and August 30, 1990. Complainant requests that the Board deny Respondent's request for extension of time and that the Board "proceed with such enforcement penalties instanter as this Board determines necessary and just". The intent of Complainant's motion appears to be an attempt to indicate by many extensions that there has been delay on the part of Respondent to come into compliance.

The Board notes that on April 27, 1990, Respondent filed a report with the Board describing abatement procedures. Such report was ordered by the Board and was due to be filed April 30, 1990. On June 14, 1990, Respondent further alleged compliance with the applicable noise regulations, as it believed the report indicated such compliance, but requested additional time to demonstrate compliance. No response was filed by Complainant. On July 3, 1990, the Board granted Respondent additional time to demonstrate compliance with Board noise regulations.

The Board further notes that its August 30, 1990 Order was in response to a motion to dismiss filed by Respondent, not a motion for additional time. Respondent had requested that the Board dismiss this proceeding, claiming that the April 27, 1990 report it submitted showed substantial compliance with the Board's noise regulations. Complainant did not respond to the motion to dismiss. The Board found that the report showed that reductions in the noise levels had been achieved, but that non-compliance with the regulations is still indicated. Upon ruling that Respondent was

not in compliance, the Board gave Respondent additional time to demonstrate compliance.

The Board finds that Respondent could have honestly believed that it was in compliance. The record indicates that Respondent has made efforts to comply by timely submitting a report describing abatement procedures and installing abatement devices. The Board does note that Respondent has not given reasons for its difficulty in obtaining its report demonstrating compliance.

Although reluctantly, the Board grants Respondent's motion for additional time, but only until November 1, 1990. In an effort to prevent any future delay, the Board states that this shall be the last extension granted. Respondent shall submit a report to the Board and Complainant which demonstrates compliance with all applicable Board regulations not later than November 1, 1990.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the _____ day of _____, 1990, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board