

ILLINOIS POLLUTION CONTROL BOARD  
May 22, 1975

ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 74-213
	)	
SPINNEY RUN FARMS CORPORATION,	)	
	)	
Respondent.	)	
	)	
SPINNEY RUN FARMS CORPORATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 74-347
	)	
ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

Spinney Run Farms' Motions for Stay and for Reconsideration and Modification of our Order in PCB 74-347 is dismissed. We note that on May 13, 1975, the day before the Motions were filed, a Petition For Review of our Orders in PCB 74-213 and PCB 74-347 was filed with the Illinois Appellate Court, Second District, Docket Number 75-185. As this matter is now pending before the Court, the Board is of the opinion it no longer has jurisdiction to consider such Motions.

We are aware that when the Petitioner filed the appeal with the Court and the Motions with the Board it was without the benefit of our Opinion in PCB 74-347, and our Opinion and Order in the Enforcement Case, PCB 74-213, both of which were issued May 8, 1975 but not released until May 22, 1975. For this reason we will explain why we would deny the Motions if it was determined we still had jurisdiction.

Petitioner objects that the variance we granted on April 10, 1975 is for an insufficient period of time within which to construct its pretreatment plant. The variance extends through September 22, 1975 while Petitioner asserts that fifteen months

are needed for construction. It is a frequent policy of the Board to grant variances for shorter periods of time than are necessary to complete a compliance program. As we indicated in our Opinion, at the conclusion of the variance period an extension of a variance would be appropriate where Petitioner can show a good faith effort to comply with its compliance program. In considering Petitioner's contention that insufficient time has been allotted, we cannot help but note that the pretreatment plant was originally to have been completed in 1973, a fact upon which we granted our earlier variance in PCB 72-185 and PCB 72-327. The records shows that work on the plant was never even begun. Considering Petitioner's past performance, we are unwilling to grant the variance for the full period of time necessary for construction without a showing that reasonable progress has been made.


Since Petitioner indicated in the record a willingness and intention to construct the pretreatment plant, and since pretreatment will be necessary for diversion to the Gurnee Treatment Plant in accordance with NPDES requirements, there should be no serious objection now to construction of the plant. Since a similar willingness and intention was expressed in the earlier variance case, in which no bond was required, we now deem it appropriate to require a bond to give Petitioner adequate financial incentive to proceed with the pretreatment plant.

Petitioner also seeks clarification of the Order with regard to the standards imposed for its effluent. These standards apply to the time period of the variance and are designed to insure that Spinney Run Farms does not increase the load of BOD and suspended solids in its effluent. At such time as the pretreatment plant is completed, and if a variance is still needed, and granted, then these standards would be adjusted accordingly.

Petitioner's Motion For a Rendering of a Concurrent Decision on the Enforcement Proceeding is moot, since the Opinion and Order were issued.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22<sup>nd</sup> day of May, 1975 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board