

ILLINOIS POLLUTION CONTROL BOARD
August 2, 1971

NATIONAL GYPSUM COMPANY)
)
 V.) PCB #71-99
)
 ENVIRONMENTAL PROTECTION AGENCY)

Donald Bomberry for National Gypsum Company
Roger C. Ganobcik for Environmental Protection Agency

Opinion of the Board (by Samuel R. Aldrich):

On May 4, 1971, National Gypsum Company requested a variance from air pollution regulations for its Waukegan, Illinois plant. The request was made after the Company failed to comply with the terms of an Air Contaminant Emission Reduction Program ("ACERP") approved by the Air Pollution Control Board in May of 1970. The program set a completion date of April 15, 1971, for installation of pollution control equipment. The Company failed to meet that deadline. The petition asks for additional time in which to reduce dust emissions from a gypsum block grinder.

At the hearing, plant manager Donald Bomberry testified that he misunderstood the terms of the Company's ACERP. He geared the installation operation for a completion date of July 1, 1971, rather than April 15 (R. 5). When informed of his error he caused the operation to be accelerated (R. 18). Installation was complete by June 7, 1971 (Ex. F) and the Agency states that the Company is now in compliance with the law. Therefore, notwithstanding the Company's inexcusable delay in achieving compliance, a variance is no longer necessary. We find the question of whether a variance should be granted is now moot. Consequently we will dismiss the petition.

The block grinder in question grinds approximately 3000 pounds of gypsum block per day used in the manufacture of wallboard (R.11,37). In its petition the Company indicated that the grinding process resulted in the discharge of gypsum particles at the rate of approximately five pounds per hour. This is on the order of 24 times the rate allowed under the rules (R. 24). However, at the hearing Donald Bomberry testified that the rate indicated in the petition was incorrect. He stated that it should have been five pounds per day (R. 9). The Environmental Protection Agency could neither confirm nor deny the amended estimate since it had recognized the original figure as being in violation of the standards and thus had not conducted any tests at the site (R. 23). At the hearing Donald Bomberry agreed to provide the Board with whatever documents were available concerning emission rates. None was forthcoming, however.

If the figure of five pounds of gypsum particles per day is correct, no violation of the air pollution regulations has occurred (R. 23). We have already ruled the question of whether the variance should be granted is moot. Consequently we need not consider whether the emissions were in violation of applicable sections of the Environmental Protection Act.

Apparently the Agency has not monitored emissions either prior to or following installation of the control equipment. Counsel for the Agency indicated that the equipment had been inspected and judged capable of bringing emissions within the standard (R. 28). But persons living near the plant testified that emissions did not decline noticeably after June 7, 1971, when installation of the equipment was completed (R. 39). The same persons indicated, however, that emissions were reduced to zero during the week prior to the hearing and claimed the plant had not been operating during this interval. This was denied by Donald Bomberry who testified the plant had been in complete operation (R. 39). Under the circumstances we must proceed on the assumption that if a problem persists it will be brought to the attention of the Agency or the Board in an appropriate manner.

The petition for variance is hereby dismissed.

This opinion constitutes the Board's findings of fact and conclusions of law.

I concur

I dissent

David P. Currie

Samuel A. Aldrich

John D. Dunelle

William J. ...

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I, Regina E. Ryan, Clerk of the Pollution Control Board, hereby certify that the Board adopted the above opinion and order this 2nd day of August, 1971.

Regina E. Ryan
