

1 HEARING TAKEN BEFORE:

2 ILLINOIS POLLUTION CONTROL BOARD, by
3 MS. JUNE C. EDVENSON, ESQ., Hearing Officer
4 James R. Thompson Center
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6 Chicago, Illinois 60601
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8 APPEARANCES:

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Appearing on behalf of the Illinois
Pollution Control Board.

ALSO PRESENT:

MR. KENNETH W. FORMANSKI, The Solar Corporation
MR. GREGORY L. MILLER, The Solar Corporation
MR. YOGINDER MAHAJAN, Illinois Environmental
Protection Agency

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1 THE HEARING OFFICER: Good morning and
2 welcome.

3 This is a contested case hearing
4 conducted by the Illinois Pollution Control
5 Board, Case No. PCB 96-239, The Solar
6 Corporation, Petitioner, versus Illinois
7 Environmental Protection Agency, Respondent.
8 This is a petition for an air variance.

9 My name is June Edverson. I am the
10 Board's Hearing Officer for this case.

11 I will now request the counsel for the
12 parties to enter their appearances for the
13 record.

14 MR. LATHAM: Mark Latham, L-a-t-h-a-m, of
15 Gardner, Carton & Douglas on behalf of the
16 Petitioner, Solar Corporation.

17 MS. KOLBE: Sheila Kolbe, K-o-l-b-e, on
18 behalf of the Illinois Environmental
19 Protection Agency.

20 THE HEARING OFFICER: And I believe
21 counsel for the parties have filed their
22 appearances with the Board in writing?

23 MR. LATHAM: Yes.

24 MS. KOLBE: Yes.

1 THE HEARING OFFICER: Okay. There are
2 other representatives of the parties in
3 attendance.

4 And would you like to introduce
5 yourselves for the record?

6 MR. MILLER: Greg Miller, M-i-l-l-e-r,
7 Solar Corporation.

8 MR. FORMANSKI: Kenneth Formanski,
9 F-o-r-m-a-n-s-k-i, Solar Corporation.

10 MR. MAHAJAN: Yoginder Mahajan,
11 M-a-h-a-j-a-n, for the Illinois Environmental
12 Protection Agency.

13 THE HEARING OFFICER: Okay. Thank you
14 very much.

15 And we also have with us Ms. Doyle, an
16 attorney assistant for the Board. Thank you
17 for coming.

18 Do we have any preliminary motions or
19 stipulations?

20 MS. KOLBE: Yes. At this time, I have a
21 motion to modify the Agency recommendation. I
22 had previously given a copy to the Hearing
23 Officer and also to opposing counsel.

24 THE HEARING OFFICER: And you hope the

1 Board to consider this along with the variance
2 petition and Agency recommendation documents
3 that have already been filed?

4 MS. KOLBE: That's correct.

5 THE HEARING OFFICER: All right. Thank
6 you.

7 And let the record reflect that I will be
8 carrying the Board's file and copies to the
9 Board at the end of this hearing.

10 Then at this time, I believe the parties
11 have decided the order of the hearing, and the
12 Agency will first make an opening statement.

13

14 OPENING STATEMENT

15 By Ms. Kolbe

16 Hearing Officer, Pollution Control Board,
17 Members, Counsel, Counsel, I am Sheila Kolbe, Assistant
18 Counsel for the Illinois Environmental Protection Agency,
19 and I am representing the Agency in this matter of a
20 variance for The Solar Corporation ("Solar"). With me
21 today is Yoginder Mahajan, formerly known as Yoginder
22 Paul, my technical expert from the Air Quality Planning
23 Section of the Bureau of Air who has been assisting me in
24 this matter and will be testifying later today on the

1 Agency's behalf.

2 Solar operates a custom parts manufacturing
3 facility, i.e. a job shop, located in Libertyville, Lake
4 County, Illinois. It is requesting a variance from
5 35 Ill. Adm. Code 218.204(n)(1)(B)(i) (Subpart F: Coating
6 Operations - Emission Limitations -- Plastic Parts
7 Coating: Automotive/Transportation-Interiors - Air
8 Dried - Color Coat) in order to allow it to use
9 154.25 gallons of non-compliant interior automotive
10 coatings that it has on hand from purchases made prior to
11 the Plastic Parts Coating rule becoming effective until
12 compliant low Volatile Organic Material ("VOM") coatings
13 become approved and available.

14 The Surface Coating of
15 Automotive/Transportation and Business Machine Plastic
16 Parts rule adopted in Rulemaking R94-21 set new
17 limitations on the VOM content of surface coatings applied
18 to Automotive/Transportation plastic parts. These limits,
19 which are applicable to Solar, appear in Section
20 218.204(n). However, plastic parts coaters, such as
21 Solar, may also rely on existing compliance alternatives
22 contained in Sections 218.205 (Daily-Weighted Average) and
23 218.207 (Cross-Line Averaging) in order to meet these
24 limitations.

1 Solar and the Agency discussed these
2 alternatives, and Solar explained that these alternatives
3 were not feasible because only temporary immediate relief
4 is needed and not permanent relief. Also, because Solar
5 is a "job shop" which requires Solar to change parts of
6 shifts or entire shifts to do very little painting or only
7 apply solvent-based paint, Solar would not be able to
8 achieve compliance under either cross-line averaging or
9 daily-weighted averaging with respect to the alternative
10 daily emission limitations.

11 For use of daily-weighted averaging, the
12 numerical emission limitations must all be the same under
13 35 Ill. Adm. Code 218.205(g)(1). Since Solar applies more
14 than one coating on its paint lines, daily-weighted
15 averaging is not an alternative compliance option. Also,
16 cross-line averaging is not an alternative compliance
17 option because it requires an operational change to a
18 pre-existing coating line. Solar has changed from
19 solvent-based to water-based coatings, but has not done an
20 operational change to any of its coating lines.

21 Solar has also investigated the use of add-on
22 controls. The Agency agrees with Solar that the add-on
23 control technologies defined as RACT are technologically
24 unreasonable for its Libertyville facility. Since the

1 adoption of Rulemaking R94-21, Solar has converted
2 approximately 98 percent of its paints to water-based
3 products, which are low VOM compliant versions of
4 solvent-based coatings.

5 The six non-compliant interior automotive
6 coatings that are the subject of this variance as of now
7 have not all been reformulated by Solar's supplier and are
8 not available and approved for use in a water-based
9 version.

10 These rules, like most other Environmental
11 Protection regulations under Title 35 of the Illinois
12 Administrative Code, were written for general
13 applicability. Since occasionally companies such as Solar
14 may find it technically impossible or extraordinarily
15 burdensome to comply with these rules, the Illinois
16 Environmental Protection Agency allows for the Board to
17 grant variances when the Petitioner has provided adequate
18 proof that compliance with any rule or regulation would
19 impose an arbitrary or unreasonable hardship.

20 Today, Solar will elaborate more on the
21 reformulation process and other difficulties of bringing
22 the six non-compliant paints that are the subject of this
23 variance into compliance.

24 For the most part, the Agency has negotiated

1 the variance and proposed compliance plan with Solar.
2 However, one item of the Agency recommendation which was
3 not discussed with Solar regards testing. This provision
4 was copied from their current permit which requires
5 testing to be performed on representative samples of any
6 new coatings used on an applied basis. Solar has
7 indicated to the Agency that the costs to test, which
8 Solar will describe for the Board, are more expensive than
9 had been anticipated.

10 At Solar's request, the Agency has reviewed
11 this information and has reconsidered the testing
12 requirement. The Agency has determined that the VOM
13 content of the coatings used can be verified by Material
14 Safety Data Sheets, MSDS sheets, provided that no
15 additional solvent is added. If additional solvent is
16 added, calculations of the solvent added and other
17 verifications of VOM content would be sufficient for
18 verification needs.

19 The Agency believes that the granting of the
20 variance will not result in environmental or health
21 effects substantially and significantly more adverse than
22 the effects than those considered in adopting the R94-21
23 RACT regulation. However, the Agency is appropriately
24 concerned about ozone air quality in the Chicago

1 non-attainment area and does not consider emissions of
2 VOM, especially during the ozone season, as insignificant
3 or of having no effect on air quality or the environment.
4 Therefore, the Agency is requesting the Board to limit the
5 Petitioner's variance to only one year from the date of
6 filing until May 22, 1997, so that these emissions will
7 not continue into the heart of another ozone season.

8 Respectfully, the Agency urges the Board to
9 grant the Petitioner's request for a variance subject to
10 the conditions stated in the Agency recommendation. Thank
11 you.

12 THE HEARING OFFICER: Thank you,
13 Counsel.

14 Mr. Latham, do you have an opening
15 statement?

16

17 OPENING STATEMENT

18 By Mr. Latham

19 Just very briefly, I'd like to thank everyone
20 for coming here this morning; Hearing Officer Edveson and
21 Assistant Attorney for the Agency -- or excuse me -- for
22 the Board, Ms. Doyle; Sheila Kolbe of the IPA; and
23 Yoginder Mahajan.

24 As Sheila has summarized for us very nicely,

1 what we are here today for is a very short-term variance
2 that would allow Solar to use approximately 155 gallons of
3 paint which didn't comply with 35 Ill. Adm. Code
4 218.204(n), which is the Plastic Parts Automotive Coating
5 rule.

6 While Solar participated in this rulemaking
7 and at the time believed -- Well, certainly at the time,
8 we had some questions about compliance which we raised
9 with the Agency. Despite those concerns, Solar to date
10 has been able to convert over approximately 98 percent of
11 its paints, as I understand it, to water-based paints
12 which meet the VOM limitations set forth in the rule which
13 is the subject of this variance proceeding. However,
14 there are a handful of paints which Solar uses on a very
15 small basis for which there are no water-based
16 alternatives available yet, and those are the paints for
17 which we are seeking retroactive variance relief for
18 today.

19 We have also agreed and the Agency has
20 proposed this in their recommendation to limit the
21 emissions that will be associated with these paints during
22 the course of the variance to .67 ton, which I understand
23 is about 1,500 pounds. And while we initially sought
24 relief for 18 months, we have no problem with the

1 termination of May 22, 1997.

2 Finally, I would just like to say that we also
3 support the motion which Ms. Kolbe has submitted to the
4 Hearing Officer this morning regarding the VOM
5 certification and compliance.

6 THE HEARING OFFICER: Okay. Thank you
7 very much.

8 MR. LATHAM: Thank you.

9 THE HEARING OFFICER: At this point in
10 time, we would like to to have the
11 Petitioner's witnesses give their testimony.

12 MR. LATHAM: Thank you.

13 The first witness that we are going to
14 put on is Mr. Greg Miller of The Solar
15 Corporation. Greg is a senior manufacturing
16 engineering and is very familiar with the
17 conversion process for the paints that Solar
18 is undertaking.

19 THE HEARING OFFICER: Mr. Miller, would
20 you please be sworn?

21 (Witness sworn.)

22 MR. LATHAM: As Ms. Kolbe's pointed out,
23 one issue which came up after the Agency
24 recommendation was the issue regarding testing

1 of the paints as used; and when we got the
2 recommendation, that was forwarded to Solar
3 and Greg took a look at that.

4
5 GREGORY L. MILLER,
6 called as a witness herein, having been first duly sworn,
7 was examined upon oral interrogatories and testified as
8 follows:

9 DIRECT EXAMINATION
10 BY MR. LATHAM:

11 Q. And, Greg, could you just summarize for us
12 this morning your discussions with -- I believe it was New
13 World Environmental Services; correct?

14 A. Correct.

15 Q. (Continuing.) -- regarding the testing that
16 the Agency proposed in its recommendation?

17 A. Taking a look at the quote that was provided
18 by New World Environmental Services --

19 MR. LATHAM: Excuse me. You were going
20 to introduce the document.

21 THE HEARING OFFICER: Yes. Let's have
22 the introduction of the document.

23 All right. This is a letter from New
24 World Environmental Services, Incorporated to

1 the Solar Corporation dated July 25, 1996.

2 MR. LATHAM: And it has been marked as
3 Exhibit 1?

4 THE HEARING OFFICER: Yes.

5 (Exhibit No. 1 was marked
6 for identification.)

7 BY MR. LATHAM:

8 Q. Mr. Miller, could you just take a quick look
9 at what we've introduced as Exhibit 1.

10 Is that a true and accurate copy of a letter
11 dated July 25th which you received from New World
12 Environmental Services?

13 A. Yes, it is.

14 Q. Could you just summarize for us your
15 discussions with New World Environmental Services that led
16 up to this letter?

17 A. Okay. Basically, we were looking for
18 quotations to comply with the tests as required in the
19 document of verifying VOCs and the five paints in question
20 plus new paint and new glue that had been introduced at
21 Solar, and we were looking for a cost to have this work
22 performed. We brought the consultant in and explained to
23 him what we wanted. It didn't seem to be a big problem.
24 A couple of days later, the quotation then came back. We

1 looked at it with a total cost of \$4,900 to test seven
2 samples. I feel that this is a little excessive for the
3 scope of work to be performed.

4 Q. Have you had any other discussions with any
5 other labs regarding this sampling?

6 A. I'm in the process of trying to seek
7 alternative labs to do this. Having talked with not lab
8 people, but some other individuals in the paint business,
9 they also concur in my opinion that this cost is somewhat
10 excessive.

11 Q. Given that, are you familiar with the
12 alternative that the Agency is now proposing?

13 A. Yes, I am.

14 Q. Well, why don't you just briefly summarize
15 what your understanding of what the alternative the Agency
16 is proposing now would be?

17 A. It would be a mathematical calculation to
18 determine VOC of the paints. As it applies, this
19 calculation would consist of taking information from the
20 MSDS sheets of the paint and of the reduce in solvents
21 along with the mix ratio, which is one part paint to one
22 part solvent, and calculating on a pounds-per-gallon basis
23 the amount of VOCs that would be emitted by the use of
24 that reduce in paint.

1 Q. And does that present a problem for Solar?

2 A. No, it does not.

3 Q. Okay. As part of their proposal -- and it's
4 in the motion which was submitted this morning -- if you
5 don't add any reduce in solvent, you could also use the
6 MSDS sheet to verify the VOM content of the paints. Is
7 that an acceptable offer as well?

8 A. Yes, it is.

9 MR. LATHAM: Unless the Agency has any
10 questions, that completes our examination.

11 THE HEARING OFFICER: Okay. Then you
12 have concluded your questioning?

13 MR. LATHAM: Yes.

14 MS. KOLBE: Oh, I have a question of the
15 witness.

16 THE HEARING OFFICER: Okay. Then
17 Ms. Kolbe.

18 MS. KOLBE: I do have one question.

19

20 CROSS-EXAMINATION

21 BY MS. KOLBE:

22 Q. As we discussed this morning, you said that
23 when you do these paints, you do it by batch; correct?

24 A. Correct.

1 Q. And so then you would be willing to do these
2 calculations per batch?

3 A. Correct.

4 Q. Okay. And you wouldn't be adding solvent
5 after you have made the batch?

6 A. After the initial reduction, no.

7 Q. Okay. And you said that after you make the
8 batch, if you didn't use it within a certain time, you
9 would have to throw it away, something like that?

10 A. In approximately five days, the solvent would
11 then attack the pigments in the batch and cause it to go
12 off color. So we would take that material and place it
13 into the solvent recovery drums for recycling.

14 MS. KOLBE: I have no further questions.

15 MR. LATHAM: I just have one quick
16 follow-up.

17

18 REDIRECT EXAMINATION

19 BY MR. LATHAM:

20 Q. Just so that it's clear, if you do use a
21 solvent to reduce the paint, you only add the solvent once
22 to the paint --

23 A. That's correct.

24 Q. -- to the initial time; is that correct?

1 A. That's correct.

2 MR. LATHAM: I have no further questions
3 for Mr. Miller.

4 THE HEARING OFFICER: Thank you,
5 Mr. Miller. Thanks for coming.

6 MR. MILLER: Thank you.

7 MR. LATHAM: At this point, I'd like to
8 introduce Mr. Ken Formanski again.

9 THE HEARING OFFICER: Mr. Formanski,
10 would you please be sworn?

11 (Witness sworn.)

12 MR. LATHAM: And he would like to simply
13 make a brief statement to the Hearing Officer
14 and representatives of the Board and the IPA
15 this morning.

16 MR. FORMANSKI: Thank you.

17 STATEMENT

18 By Mr. Formanski

19 I would just, once again, like to thank the
20 Board and especially the Agency for all of their help.
21 The Agency has been of great help to Solar over the past
22 years that I have dealt with them.

23 And just to give the Board some additional
24 information, when we initially started this procedure when

1 we looked at it back in January/February, we had eight
2 paints at that time that were not in compliance. At the
3 time of filing the first draft, by the time I think after
4 the first draft, we were down to six. As we currently
5 speak in this room right now, we are down to five. So our
6 efforts of continuing to reduce that amount is happening.
7 We were told that approximately in the next 90 days,
8 there's a good chance that two additional will be down
9 from that number; so Solar is continuing to reduce it.

10 The amount of paints that we'll use are
11 unknown because they are automotive paints and some of
12 them are for service orders. So unless the automotive
13 dealers need them, we are not going to produce them. So
14 we are talking about a very, very small amount.

15 To reiterate, we have no problem meeting
16 the May 22nd date of next year. We think we'll be well in
17 compliance during that time.

18 The only other thing I'd like the Board
19 to consider is when Solar started this back in 1991 -- We
20 probably have an existing of about 50 paints that we use.
21 So we took those 50 paints, and we took the high users and
22 started to convert those first to a water base.
23 Similarly, being a job shop, we get between 100 and 150
24 new orders a year; not all of these are for paint, but

1 let's assume that 20, 25 are. We had to convert those as
2 well, and this has been some of the delay that we have
3 experienced. So we are probably a little bit closer to
4 that 100 percent than when we started this, and we hope
5 that the Board approves our variance. Thank you.

6 THE HEARING OFFICER: Thank you,
7 Mr. Formanski.

8 MR. LATHAM: I just have, if I could,
9 just one question for you, Mr. Formanski. And
10 what I'm going to do, I'm going to refer to
11 page 5 of our variance petition.

12 At the top of the page, there are the six
13 paints which you were seeking to use pursuant
14 to the variance.

15 MR. FORMANSKI: Right.

16 MR. LATHAM: Which of those are no
17 longer?

18 MR. FORMANSKI: I think you should ask
19 Greg that.

20 MR. LATHAM: Oh, okay.

21 MR. MILLER: Do you want me to --

22 MR. LATHAM: Yes. I guess the question
23 is more appropriate for Mr. Miller. I'm
24 sorry.

1 Of those six, which one is no longer?

2 MR. MILLER: Item No. 5.

3 MR. LATHAM: No. 5. Okay. So No. 5,
4 which was one solvent based, has now been --

5 MR. MILLER: Converted over to water.
6 The remaining solvent-based paint has been
7 destroyed.

8 MR. LATHAM: Thank you.

9 Any questions for Mr. Formanski?

10 MS. KOLBE: Just a point of -- Actually,
11 back to Greg Miller, if that's okay.

12 THE HEARING OFFICER: That's fine. We
13 are having a somewhat informal gathering here
14 today.

15 MR. LATHAM: Yes, we are.

16 MS. KOLBE: For that No. 5 -- That was
17 vendor No. 72234-W7E?

18 MR. MILLER: Yes.

19 MS. KOLBE: (Continuing.) -- is my
20 understanding correct that now that you have
21 the water-based version and you've thrown out
22 the solvent, you will not be using that at
23 all?

24 MR. MILLER: That is correct.

1 MS. KOLBE: Okay.

2 MR. MILLER: Some of the 20 gallons was
3 used prior to us obtaining the new
4 water-based. I believe we used perhaps about
5 5 gallons of it. It's just a rough number;
6 but as soon as we got the water-based in and
7 it was approved, I issued the paperwork to
8 have that material destroyed.

9 THE HEARING OFFICER: Ms. Kolbe, could
10 you give us the page reference that you are
11 referring to?

12 MS. KOLBE: Page 5 of Petitioner's
13 petition.

14 THE HEARING OFFICER: All right.

15 MR. FORMANSKI: In addition to that --
16 Excuse me. I'm sorry.

17 THE HEARING OFFICER: Go ahead.

18 MR. FORMANSKI: Once we had any
19 water-based substitution, we got rid of the
20 solvent-based on any paints even in the past,
21 even prior to March. So Solar has actually
22 tossed a lot of good solvent paint in place of
23 the water-based. Do you follow what I'm
24 saying? So once we got the water-based

1 equivalent, it didn't matter how many gallons
2 of solvent-based we had. We didn't toss it
3 actually. We got rid of it legally. You just
4 can't toss that stuff. But we did cease using
5 it immediately and went right to the
6 water-based.

7 MR. MILLER: If I may sort of clarify for
8 everyone, tossed and destroyed just signifies
9 the material was taken and placed into solvent
10 recovery drums and sent out for disposal by
11 licensed waste haulers.

12 THE HEARING OFFICER: Ms. Kolbe, do you
13 have any further questions for either of the
14 witnesses?

15 MS. KOLBE: Actually, if you could just
16 go over the approval process a little bit.

17 MR. LATHAM: Oh, for the water-based
18 paints?

19 MS. KOLBE: Yes, for the water-based
20 paints.

21 MR. LATHAM: Who is best --

22 MR. FORMANSKI: Greg.

23 MR. LATHAM: Greg will address that.

24 MR. MILLER: Actually, the approval

1 process begins with the paint manufacturer
2 where they will formulate a paint chemically
3 and pigment it, and then a dry sample is
4 shipped to the automotive customer, in this
5 case it's General Motors, where they will view
6 the color, do some physical testing on it.

7 After it has gone through this process,
8 which can take several iterations, they give
9 their blessing that, yes, this color
10 matches -- you know, this sample matches the
11 color that we want it to match; go ahead and
12 issue the subsequent samples, you know. They
13 are now available to issue the subsequent
14 samples out to suppliers. It's only at that
15 time that we actually receive a sample of
16 material to evaluate on our own.

17 We will then take the material, spray it
18 out onto our substrates, and verify against
19 the color masters. Once again, it's another
20 check to make sure that we have the right
21 color material. At that point, it then goes
22 through our ECN process, which gives the
23 various individuals in our organization an
24 opportunity to say, yes, this is an approved

1 material; go ahead and put into our system.

2 THE HEARING OFFICER: And ECN process
3 stands for what?

4 MR. MILLER: Engineering change notice.

5 THE HEARING OFFICER: Okay. Thank you.

6 MS. KOLBE: Why does this take such a
7 long time in order for them to reformulate and
8 approve it?

9 MR. MILLER: Our customer is wanting to
10 make sure that the name of their color --
11 let's say it's very dark sapphire; that this
12 very dark sapphire water base would be
13 visually identical to very dark sapphire
14 solvent-based paint and meet all of the
15 physical requirements for durability, UV
16 exposure, et cetera, that they've set out.

17 And as you are dealing with the human
18 beings and the human beings' ability to
19 visually compare color, it's a very subjective
20 thing; and what looks good to you or I may not
21 look good to a trained colorist or trained
22 stylist.

23 MS. KOLBE: If you could just elaborate
24 on how many suppliers are out there that you

1 can use?

2 MR. MILLER: Okay. We are limited to
3 suppliers that are recognized by our customer
4 base, which I believe there are three of them
5 for automotive interior colors. There are two
6 large players; large players meaning that
7 between the two of these, they probably
8 control 98 percent of the market. These are
9 just numbers off of my understanding. Of
10 those two, one of them is more our current
11 supplier who has probably about 70 percent of
12 that, and the other is Red Spot.

13 And there are a couple of reasons as to
14 why we are going with Morton as opposed to Red
15 Spot. We are a current customer of Morton;
16 we are not of Red Spot. We have had quality
17 concerns with Red Spot in the past. We used
18 to deal with them both from a delivery
19 standpoint of view and from a product
20 standpoint of view.

21 Also, in trying to go to Red Spot, we
22 have no buying leverage at this point. We
23 would be on the bottom of the pile. At least
24 with Morton, we are in their cue. We have

1 some leverage with them, although,
2 unfortunately, there are many other customers
3 of theirs who are also in this cue, if you
4 will. They are concentrating on the current
5 and upcoming colors. The slower runners, the
6 ones that are going obsolete, are taking a
7 back seat to that; and Morton not wanting to
8 work their people around the clock has had to
9 establish a priority and cuing system. And as
10 we come up in the list, we get the samples.

11 MS. KOLBE: Okay. That's all my
12 questions. Thanks.

13 THE HEARING OFFICER: All right.

14 MR. LATHAM: I do have one follow-up
15 question.

16

17 FURTHER REDIRECT EXAMINATION OF MR. MILLER

18 BY MR. LATHAM:

19 Q. I just want to make sure I understand the
20 approval process which you described. It sounds to me
21 like it's a two-step approval process that these paints go
22 through. First, your customer, General Motors in this
23 case, takes a look at the paint before it ever reaches
24 you?

1 A. Correct.

2 Q. And makes a determination as to whether that
3 paint, the water-based paint, looks like --

4 A. Performs like.

5 Q. -- the solvent-based equivalent?

6 A. Correct.

7 Q. And then at that point --

8 A. We get a sample and an opportunity to verify
9 it in our production facility under our production
10 conditions.

11 You are correct in the sense that we do not
12 even get a chance to evaluate the sample, look at it or
13 receive it until our customer has gone through and given
14 their blessing to it.

15 Q. Okay. With respect to what I'll term this
16 two-step approval process, do you have any idea how long
17 it typically takes based on your experience with Morton?

18 A. From the time that Morton submits it to
19 GM and it goes through their processes.

20 Q. Well, I guess you've already requested Morton
21 to do this?

22 A. Right.

23 Q. Okay. So from the time that Morton develops
24 it and then submits it to General Motors and then gets it

1 to you, what's the total time that may take or typically
2 take?

3 A. On average, probably about three, four months.

4 Q. And that's per paint?

5 A. Per color.

6 Q. Per color rather.

7 MR. LATHAM: I have no further questions.

8 THE HEARING OFFICER: All right. At this
9 time, Ms. Doyle has a couple questions, at
10 least, that she would like to ask the
11 witnesses for the Board.

12 And I will now correct her name. She is
13 a newly wed, and she is now Ms. Poulos.

14 MR. LATHAM: Oh, sorry.

15 MS. POULOS: I answer to either.

16 Just a couple questions, and I don't know
17 who is more appropriate to answer; but do you
18 remember the original cost of the 155 gallons
19 of paint? Is that something that you
20 remember?

21 MR. MILLER: I could give you an
22 approximate.

23 MS. POULOS: That's fine.

24 MR. MILLER: About \$4,600, and I am

1 basing that on 150 gallons by an average cost
2 of \$30 a gallon.

3 MS. POULOS: Okay. Also, what will Solar
4 use after these 155 gallons are used?

5 MR. MILLER: We will have a water-based
6 equivalent formulated to match that color.

7 MS. POULOS: But that's just not
8 available now?

9 MR. MILLER: Right.

10 MS. POULOS: It's being formulated?

11 MR. FORMANSKI: Correct.

12 MR. MILLER: That is correct.

13 MS. POULOS: Okay. Thank you.

14 THE HEARING OFFICER: All right. Thank
15 you very much.

16 At this point in time then, we will
17 entertain the Agency's witness.

18 MS. KOLBE: At this time, I would like
19 to call Yoginder Mahajan.

20 THE HEARING OFFICER: Will the witness
21 please be sworn?

22

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24

1 (Witness sworn.)

2 STATEMENT

3 By Mr. Mahajan

4 Good morning. My name is Yoginder Mahajan. I
5 am employed by the Illinois Environmental Protection
6 Agency as an environmental protection engineer in the Air
7 Quality Planning Section of the Bureau of Air. I have
8 been employed in this capacity since March 1992. Prior to
9 that, I was employed as a quality control engineer with
10 Kenlin Enterprises at Highland Park, Illinois.

11 My educational background includes a bachelor
12 of engineering degree in mechanical engineering from
13 Bhopal University, India.

14 (Discussion off the record.)

15 (Continued Statement by Mr. Mahajan.)

16 As part of my regular duties in the Air
17 Quality Planning Section, I have been involved with
18 preparing emission estimates for various source categories
19 used in the development of the 1990 ozone season weekday
20 emissions inventories and the Lake Michigan
21 Ozone Study emissions inventories evaluating control
22 technologies applicable to volatile organic material
23 emissions sources utilized in the preparation of the
24 15 percent Rate-of-Progress plans for the Chicago and

1 Metro-East St. Louis ozone non-attainment areas and
2 assisting in the development of regulations for the
3 control of VOM emissions from source categories included
4 in the 15 percent ROP plans.

5 Also, I was involved in the development of
6 the Surface Coating of Automotive/Transportation and
7 Business Machine Plastic Parts regulations for which The
8 Solar Corporation is seeking variance from. I personally
9 prepared the technical support document for this
10 rulemaking docketed as R94-21. In the Rulemaking R94-21,
11 the Agency proposed and the Illinois Pollution Control
12 Board approved levels of controls based on those
13 prescribed in the United States Environmental Agency's
14 Alternative Control Techniques document: Surface Coating
15 of Automotive/Transportation and Business Machine Plastic
16 Parts. The use of low VOM coatings and the use of add-on
17 control equipment are the two controls described in the
18 ACT to control VOM emissions from the Surface Coating of
19 Automotive/Transportation and Business Machine Plastic
20 Parts.

21 Under 35 Illinois Administrative Code 218.205
22 and 218.207, Daily-Weighted Averaging and Cross-Line
23 Averaging are the other options for compliance.

24 The Agency has reviewed the petition and

1 supporting documents submitted by Solar in request of this
2 variance. The Agency believes that Solar has demonstrated
3 that within one year, it will have available compliant
4 coatings which can be used to comply with 35 Ill. Adm.
5 Code 218.204(n)(1)(B)(i). This additional time is needed
6 for Solar to reformulate the existing non-compliant
7 coatings and gain approval of them by its customers.

8 The Agency believes that our rules are written
9 for general applicability. They cover the most widely
10 used coatings. Certain specific types of coatings which
11 are not widely used may require additional time to be
12 reformulated such as the six coatings requested by Solar.

13 Based on the 1990 emissions inventory, the
14 total VOM emissions during ozone season summer day are
15 approximately 1216 tons per day in the Chicago ozone
16 non-attainment area. The actual total increase in the VOM
17 emissions by using these six non-compliant coatings as
18 compared to the use of compliant coatings will be less
19 than 0.01 tons per day, which is less than 0.001 percent
20 of the total summer day VOM emissions in the Chicago ozone
21 non-attainment area. Therefore, the Agency believes that
22 the granting of this short-term variance will not result
23 in environmental or health effects substantially and
24 significantly different than the rule of general

1 applicability and will allow Solar sufficient time to
2 obtain compliant coatings.

3 THE HEARING OFFICER: Thank you.

4 MR. LATHAM: I have no cross. Thank you.

5 THE HEARING OFFICER: All right.

6 Did you have any further questions for
7 the witness, Ms. Kolbe?

8 MS. KOLBE: No, nothing further.

9 THE HEARING OFFICER: Okay. Then at this
10 point in time, the testimony of the witnesses
11 has been concluded, and we will just proceed
12 with the conclusion of the hearing.

13 Would the parties like to make oral
14 closing statements?

15

16 CLOSING STATEMENT

17 By Ms. Kolbe

18 In closing, the Agency supports the granting
19 of this variance subject to the conditions stated in the
20 Agency recommendation.

21 The Petitioner has presented evidence that it
22 would be technologically unreasonable for them to install
23 an add-on control device or use other production
24 processes. Petitioner has further agreed to use compliant

1 paints as each of the six non-compliant paints that are
2 the subject of this variance is reformulated, approved,
3 and available for use.

4 The Agency has concluded that the granting of
5 the variance will not result in environmental or health
6 effects substantially and significantly more adverse than
7 the effects of those considered in adopting the R94-21
8 RACT regulation. Thus, the hardship resulting from the
9 denial of the variance would be unreasonably burdensome
10 under the circumstances. Therefore, the Agency supports
11 the granting of Petitioner's variance subject to the
12 conditions stated in the Agency recommendation. Thank
13 you.

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15 CLOSING STATEMENT

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By Mr. Latham

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I would just like to say that the petition,
the supporting documentation that was attached to the
petition which is with the Board, along with the testimony
and the exhibit which was introduced today, we believe
shows that Solar meets the requirements of 35 Ill. Adm.
Code 104.121 for variance relief.

We just would like to stress that this is a
variance of a very short period and also would like to

1 stress that the VOM emissions, which are of great concern
2 not only to the Agency, but also to Solar, will be very
3 minimal as the Agency witness has testified to.

4 We are certainly glad to have received the
5 Agency's recommendation and support in this and are
6 willing to abide by the conditions that they have proposed
7 in their recommendation as modified by the motion which
8 was submitted this morning.

9 And, once again, I'd like to thank everyone
10 for their attendance this morning, and we respectfully
11 request that the Board grant the relief that we are
12 seeking here. Thank you.

13 THE HEARING OFFICER: Thank you,
14 Mr. Latham.

15 Is there any objection to the acceptance
16 of Exhibit 1 into evidence?

17 MS. KOLBE: No.

18 THE HEARING OFFICER: All right. Then
19 Exhibit 1 will be entered into evidence.

20 (Exhibit No. 1 admitted
21 into evidence.)

22 THE HEARING OFFICER: For the record, I
23 have identified no issues of witness
24 credibility in this case, and this concludes

1 our hearing for today.

2 The transcript of this proceeding will be
3 reviewed by the Members of the Board before a
4 decision is rendered in this case.

5 Thank you for your attendance and
6 cooperation in our process.

7 MR. LATHAM: Thank you.

8 MS. KOLBE: Thank you.

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10 (Which were all the proceedings
11 had in this matter at this time.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3

4 I, MICHELLE M. DOSE, C.S.R., do hereby state
5 that I am a court reporter doing business in the City of
6 Chicago, County of Cook, and State of Illinois; that I
7 reported by means of machine shorthand the proceedings
8 held in the foregoing cause, and that the foregoing is a
9 true and correct transcript of my shorthand notes so taken
10 as aforesaid.

11

12

MICHELLE M. DOSE, C.S.R.
Notary Public, Cook County, IL

13

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19 SUBSCRIBED AND SWORN TO
before me this _____ day
20 of _____, A.D., 1996.

21

Notary Public

22
23

24

