

ILLINOIS POLLUTION CONTROL BOARD
September 30, 1971

AMERICAN DISTILLING CO.)
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)
 v.) # 71-155
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)
 ENVIRONMENTAL PROTECTION AGENCY)

Edward S. King, for American Distilling Co.
John McCreery, for the Environmental Protection Agency

Opinion of the Board (by Mr. Currie):

American Distilling manufactures liquors in Pekin. Its Air Contaminant Emission Reduction Program (Acerp) was approved in 1969, looking toward replacement of coal-fired with gas-fired boilers by 1973. After our decision requiring annual reassessment of Acerps (EPA v. Commonwealth Edison Co., # 70-4, Feb. 17, 1971), the company filed a variance petition seeking confirmation of its program but advancing the compliance date to "late 1972." In response to the Agency's recommendation the date has been further advanced to June 1972. We see no way the time can be further shortened, and a shutdown in the interim would cause disproportionate hardship. We will grant the variance.

Under the statute security for performance is necessary, and we shall require it. But the Agency's request for a money penalty is misplaced. The company has not only adhered to its approved program; it has accelerated it. We cannot punish people for complying with state-endorsed programs or for earlier delays that have been forgiven by our predecessor agencies. EPA v. M. S. Kaplan Co., # 71-50, (July 8, 1971); Medusa Portland Cement Co. v. EPA, # 70-27 (Feb. 17, 1971).

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

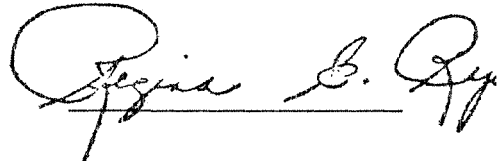
ORDER

American Distilling Co. is hereby granted a variance to permit particulate emissions from 3 coal-fired boilers at its Pekin facility in excess of regulation limits until June 30, 1972, subject to the following conditions:

- 1) Monthly progress reports shall be submitted to the Agency, and a full compliance report shall be submitted to both the Agency and the Board no later than August 1, 1972;

- 2) Within 35 days after receipt of this order the company shall post with the Agency a bond or other security in the amount of \$100,000 to assure compliance with this order;
- 3) The company shall not increase the discharge of contaminants over those emitted from the same boilers during the corresponding period in 1970-71;
- 4) No coal shall be burned after June 30, 1972;
- 5) Failure to adhere to the conditions of this order shall be grounds for revocation of the variance.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 30 day of September, 1971.

A handwritten signature in cursive script, reading "Regina E. Ryan", written over a horizontal line.