ILLINOIS POLLUTION CONTROL BOARD December 4, 1990

SONOCO PRODUC	CTS COMPANY,)	
	Petitioner,)	PCB 88-60 (Variance)
	v.)	
ILLINOIS ENVI PROTECTION AC	•	
	Respondent.)	

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board on Sonoco Products Company's ("Sonoco') filing dated October 29, 1990. Contained within this filing is a letter from Sonoco requesting an extension of an alleged December 1, 1990 construction deadline pursuant to this Board's Order of September 8, 1988. That Board order granted Sonoco a variance from the effluent standards for five-day biochemical oxygen demands (BOD₅) and total suspended solids (TSS) until March 1, 1990. The Illinois Environmental Protection Agency ("Agency") filed its Motion to Reject Petitioners Request for Extension on November 5, 1990.

The Agency contends that a new petition for variance should be filed "because the schedule which Sonoco seeks to have extended is contained in an expired variance such that the Board no longer has jurisdiction to modify its terms". (Respondent's Motion, pg. 2). For its part, Sonoco asserts that the construction delay was a result of obtaining the necessary permits to build on a flood plain. And further, that this delay will not affect the ultimate compliance date of September 1, 1991.

The motions filed in this case indicate that some confusion exists regarding the Board's variance Opinion and Order of September 8, 1988. The Opinion portion discussed Sonoco's compliance plan and notes a construction completion date of December 1, 1990 with total compliance being achieved not later than September 1, 1991. (PCB 88-60, pgs. 8-9). Yet the Board did not endorse this plan. Rather, it noted that construction and ultimately compliance was contingent upon a determination of whether the plan was technically feasible and economically reasonable. (Id at pg. 9). That is, Sonoco had indicated that if its compliance plan (a plan which required further study) was not economically viable, it would seek site-specific relief.

This being the case, the Board held that it would only grant a variance for a period in which a facility was actively working toward achieving compliance. Accordingly, the Board granted Sonoco a variance until March 1, 1990 - 120 days past the deadline of the Data Analysis and Selection of Compliance Alternative portion of Sonoco's compliance plan. In short, the Board retained jurisdiction for four months subsequent to Sonoco's deadline to determine whether or not its plan was feasible. If it was, the facility had four months to file an extension of the variance.

Any confusion which might exist is furthered by the statement that "The Board accepts the compliance plan and schedule proposed by Sonoco and will incorporate it into the Board's Order below." (PCB 88-60 pg. 11). Yet the Order reflects the discussion regarding the inherent contingency of the compliance plan and provision (4) clearly states, "This variance shall end on March 1, 1990". While the wording contained in the Opinion section of the Board's September 8, 1988 analysis is perhaps less than clear, the Order prevails.

Accordingly, Sonoco's motion is denied and the Agency's motion is granted.

IT IS SO ORDERED.

Board Member J. Anderson dissented.

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. Øinn, Clerk Illinois Pollution Control Board