

ILLINOIS POLLUTION CONTROL BOARD
November 2, 1989

AMERICAN NATIONAL CAN)
COMPANY,)
)
Petitioner,) PCB 88-203
) (Variance)
v.) Consolidated
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

AMERICAN NATIONAL CAN)
COMPANY,)
)
Petitioner,) PCB 89-83
) (Variance)
v.) Consolidated
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by N. Nardulli):

This matter comes before the Board on a "Motion to Consolidate and Modify Board Orders in PCB 88-203 and PCB 89-83" filed by petitioner American National Can Company ("ANC") on October 2, 1989.

On August 31, 1989, the Board entered an Opinion and Order in PCB 88-203 granting ANC a variance extension from 35 Ill. Adm. Code 215.204(b)(6) governing emissions from can coating manufacturing plants until November 1, 1989 or until the Illinois Environmental Protection Agency ("Agency") issues an Alternative Control Strategy permit, whichever occurs first. On September 13, 1989, in PCB 89-83, the Board granted ANC a variance from Section 215.204(b)(6) as it relates to ANC's 307 diameter gang end press¹ until November 1, 1989. In both of these matters, ANC's compliance plans called for the pursuit of an ACS permit.

By its instant motion, ANC seeks to consolidate PCB 88-203 and PCB 89-83 for purposes of obtaining an extension of both variances until ANC obtains an ACS permit. The relief sought by ANC is a 5-

¹The 307 diameter gang end press replaced ANC's 211 diameter gang end press which was used in one of the processes for which the variance extension was sought in PCB 88-203.

month variance extension; however, ANC's has sought this relief by filing a "Motion for Modification" rather than a "Petition for Extension of Variance" pursuant to 35 Ill. Adm. Code 104.123. In this cause, ANC seeks an extension of the variances granted in PCB 88-203 and PCB 89-83 because it has been unable to secure an ACS permit by November 1, 1989 as anticipated in the prior variance proceedings. Therefore, the main issue here is whether ANC is entitled to an extension of the two variances on the basis that the Agency will not be able to issue the ACS permit prior to April 1, 1990. Because of the narrow scope of this issue and because the issuance of an ACS permit was previously considered by the Board in granting the two variances, this matter will be dealt with by way of a "Motion for Modification" rather than requiring a "Petition for Extension." In treating the instant filing as a "Motion for Modification" rather than requiring ANC to file a "Petition for Extension," the requirements of Section 104.123 of the Board's Procedural Rules are hereby suspended for purposes of the instant proceeding.

There are two issues to be addressed: (1) whether PCB 88-203 and PCB 89-83 should be consolidated for purposes of granting a variance extension; and (2) whether ANC should be granted a variance extension until the Agency issues ANC an ACS permit. In support of consolidation, ANC states that both PCB 88-203 and PCB 89-83 relate to ANC's Hoopston facility end-sealing operation and that both proposed obtaining ACS permits as compliance plans. In support of its request for an extension to April 1, 1990, ANC states that the Agency has stated that it will require the full statutory time period to issue the ACS permit in order to allow for public notice, comment and hearing. Consequently, the Agency will be unable to issue an ACS permit prior to April 1, 1990. The Agency has failed to respond to the instant motion.

ANC's motion for consolidation of PCB 88-203 and PCB 89-83 is granted. The Board also finds that the proposed 5-month extension of the variances granted in PCB 88-203 and PCB 89-83 is justified. In both prior proceedings, it was anticipated that the issuance of the ACS permit would likely occur on or about November 1, 1989. The Agency has been unable to issue the ACS permit until April 1, 1990. Therefore, ANC's Motion for Modification of the prior variances is granted and the variances are extended through April 1, 1990. In all other respects, the terms of the variances remain unchanged as set forth below.

PCB 88-203

Petitioner is hereby granted an extension of the variance in PCB 89-67 from 35 Ill. Adm. Code Section 215.204(b)(6), subject to the following conditions:

1. This variance shall be effective from January 1, 1989 through April 1, 1990;

2. Emissions of the VOMs from Petitioner's Hoopeston facility shall remain less than 250 tons/year;
3. During the period of variance, the alternative emission limitation applicable to ANC's end-sealing compounds shall be 4.4 pounds of volatile organic material per gallon, minus waster computed from a running total of 12 months of data;
4. The plans and reports specified to be submitted to the Agency under this variance shall be sent to the following address:

Illinois Environmental Protection Agency
 Division of Air Pollution Control
 1340 North 9th Street
 Springfield, Illinois, 62706

PCB 89-83

The Board hereby grants American National Can, Hoopeston Plant, a variance from 35 Ill. Adm. Code 215.204(b)(6) from its 307 diameter gang end press. This variance shall commence on June 1, 1989 and extend through April 1, 1990.

Within forty five (45) days after the date of this Order the petitioner shall execute and send to:

Ms. Bobella Glatz
 Enforcement Attorney
 Illinois Environmental Protection Agency
 2200 Churchill Road
 P.O. Box 9276
 Springfield, Illinois 62794-9276

a certification of this acceptance of this variance by which it agrees to be bound by its terms and conditions.

This variance shall be void if petitioner fails to execute and forward the certificate within the forty-five (45) day period. The forty-five day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

Within 45 days of the date of this Order, Petitioner shall execute and forward to Bobella Glatz, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62794-9276, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. Failure to execute and forward the Certificate within 45 days

renders this variance void and of no force and effect as a shield against enforcement of rules from which variance was granted. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), American National Can Company, having read the Order of the Illinois Pollution Control Board, in PCB 88-203 and PCB 89-83, dated november 2, 1989, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

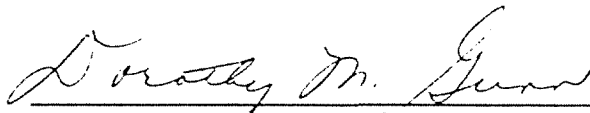
Title

Date

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111-1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Order was adopted on the 3rd day of November, 1989 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board