

ILLINOIS POLLUTION CONTROL BOARD
November 2, 1989

REILLY INDUSTRIES, INC.,)
)
Petitioner,)
)
v.) PCB 89-102
) (Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Anderson):

On June 14, 1989, Reilly Industries, Inc., formerly Reilly Tar and Chemical Corporation, (Reilly) filed a petition for a variance extension, not to exceed one year, from the variance granted in PCB 88-47 on August 4, 1988. Reilly filed an amended petition on July 6, 1989 in response to a Board Order of June 22, 1989. No hearing was requested and none has been held. On August 18, 1989, the Illinois Environmental Protection Agency (Agency) filed a recommendation to grant for one year or the effective date of the site specific rule in R88-9, subject to the same conditions in PCB 88-47. Variance is requested from 35 Ill. Adm. Code 307.103 which controls Reilly's discharge of mercury to the City of Granite City (City) sewer system.

At the outset, the Board notes that on October 18, 1989, it adopted a site specific rule for Reilly (R88-9, Adopted Rule, Final Opinion and Order). The regulation will be filed with the Secretary of State shortly.

At this juncture, Reilly is requesting about a two month variance, from September 1, 1989, the date its variance in PCB 88-47 terminated, until the date the site specific regulation is filed with the Secretary of State.

The Board does not believe it is necessary to repeat the extensive discussion and evaluation contained in PCB 88-47 (which itself was a one year variance extension of a prior three year variance granted in PCB 84-82). Rather, the Board will incorporate by reference the Opinion and Order in PCB 88-47. Reilly's need for variance extension stems solely from the delay encountered by the need for the Board to re-First Notice Reilly's site specific rule in order to conform to the requirements of the Illinois Administrative Procedure Act.

The Agency notes that Reilly's two most recent quarterly reports, of April 4 and June 30, 1989, show that the facility was

generally in compliance with the PCB 88-47 variance conditions and that Reilly was able to reduce its monthly average mercury concentration from 0.0075mg/l to 0.004 mg/l even though the tested resins were indicated to be ineffective. The Agency referenced the Board's prior Opinion, which summarized the Agency's concern over the environmental impact of mercury, a reference the Board construes as supporting variance nevertheless.

The Board particularly notes that the City was not a co-petitioner with Reilly as it was in the prior variance. Assuming that this was an inadvertent oversight, the Board hereby joins the City to assure consistency with its prior Order, and so the City's allowance of Reilly's discharge into the sewer system is affirmed.

Given the circumstances in this case, the Board agrees that Reilly has presented adequate proof that immediate compliance with the applicable mercury standard during the term of this variance would impose an arbitrary or unreasonable hardship. The Board will grant variance with the same conditions as in the prior variance.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

Reilly Industries, Inc. and the City of Granite City are hereby granted variance from 35 Ill. Adm. Code 307.103 as it applies to Reilly's discharge, from September 1, 1989 until the petitioner's site specific rule adopted on October 18, 1989, (R88-9) is filed with the Secretary of State, subject to the following conditions:

1. Reilly Industries, Inc. shall not discharge mercury at a concentration greater than 0.025 mg/l, subject to the averaging rule of 35 Ill. Adm. Code 304.104(a), to the City of Granite City sewer system, nor shall the City of Granite City allow Reilly Industries to discharge mercury at a concentration greater than that level.
2. Reilly Industries, Inc. shall conduct a compliance program to reduce the mercury concentration in its effluent consistent with the above Opinion and improve the accuracy of its mercury analysis.
3. Reilly Industries, Inc. shall continue to submit quarterly progress reports during the variance period to:

Mr. Mark Books
Illinois Environmental Protection Agency

Division of Water Pollution Control
Compliance Assurance Section
2200 Churchill Road
Springfield, IL 62706;

4. Within 45 days of the date of this Order, Petitioner shall execute and forward to Thomas Davis, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62794-9276, a Certification of Acceptance and Agreement to be bound by the terms and conditions contained herein. This variance will be void if the Reilly Industries fails to execute and forward the certificate within the 45 day period. The 45 day period shall be held in abeyance for any period during which the matter is appealed. 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 form of the certification shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board, in PCB 89-102, 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

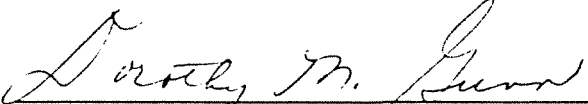
Date

5. Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, 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.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 2nd day of November, 1989, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board