

ILLINOIS POLLUTION CONTROL BOARD  
October 9, 1986

ALTON PACKAGING CORPORATION, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 86-71  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 )  
 Respondent. )

MR. EDWARD M. PYATT APPEARED ON BEHALF OF THE PETITIONER; AND

MR. RICHARD C. WARRINGTON, JR. AND MR. JIM FROST APPEARED ON  
BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a May 17, 1986 petition for variance filed by Alton Packaging Corporation (Alton Packaging) and the Army Corps of Engineers (Corps), on behalf of Alton Packaging. Alton Packaging is requesting a variance from 35 Ill. Adm. Code 304.141, Terms and Conditions of NPDES Permits, and 35 Ill. Adm. Code 304.120, Deoxygenating Wastes, for a period of time during which the Corps will be altering Alton Packaging's effluent line. On May 22, 1986, the Board ordered the Petitioners to submit additional information. The Petitioners responded to this order by filing an Amended Petition on June 16, 1986. On June 9, 1986, the Board received a Letter of Objection written by Carolyn J. Tucker, a citizen writing on behalf of herself. The Board set this matter for hearing by their order of June 20, 1986. On August 14, 1986, the Board granted the Illinois Environmental Protection Agency's (Agency) motion for leave to file Instantly the Agency's Variance Recommendation. The Agency recommended the granting of this variance. The hearing was held on August 18, 1986 in Granite City, Illinois. No members of the public attended the hearing.

Alton Packaging is a paperboard mill which manufactures corrugated containers by recycling old corrugated boxes and hard mixed. The mill is located on a 107-acre site in Alton, Illinois. Alton Packaging employs about 300 persons. The mill processes about 600 tons per day of recycled fibers to manufacture its containers. The stock preparation system has a capacity to handle 635 tons per day. (Pet. p. 1).

Alton Packaging's effluent treatment system consists of a complete mix activated sludge system followed by tertiary polishing filters. The treated effluent is presently being discharged directly into the Mississippi River in compliance with Alton Packaging's NPDES permit No. 0000213. (Pet. p. 1) A discharge line transports the effluent directly to the Mississippi where it is discharged into the river at river mile 201.1. The NPDES permit requirements are 20 mg/l (30-day average) Biochemical Oxygen Demand (BOD) with a daily maximum of 40, and 25 mg/l (30-day average) of suspended solids (SS) with a daily maximum of 50. (Rec. p. 3).<sup>1</sup> Past data regarding the discharge from Alton Packaging shows the following:

For Calendar Year 1985:

Discharge in Million Gallons Per Day	<u>Average</u>	<u>Low (Apr.)</u>	<u>High (Nov.)</u>
	2.441	2.263	2.709

For Period from 6/85 to 5/86:

	<u>30-day Avg.</u>	<u>Actual 30-day Max.</u>	<u>Daily Max. Avg.</u>	<u>Actual Daily Max.</u>
BOD, mg/l	6.5	18.0	13.1	47.0
TSS, mg/l	5.4	8.9	13.7	22.7

(Rec. p. 3)

The Corps is scheduled to begin a two-year construction project entitled "Alton Pump Station Relocation" in September, 1986. As a part of this construction project the Corps, sometime during this two-year period, will have to make alterations on Alton Packaging's effluent line. During the time of alteration on the line, which is anticipated to be one month, Alton Packaging would like to discharge its effluent into an adjacent drainage ditch which flows to a main drainage ditch. Flow from this main ditch would eventually be discharged into the Mississippi River. The effluent limits for the adjacent ditch are 10 mg/l BOD and 12 mg/l SS, because the dilution ratio is less than five to one. Since Alton Packaging's discharge sometimes exceeds these limits, a variance is needed to allow it to discharge into the adjacent drainage ditch (Pet. p. 2). Therefore, Alton Packaging is seeking a 30-day variance to begin when the effluent line undergoes alterations.

Alton Packaging claims that alternative ways to achieve compliance would impose arbitrary or unreasonable hardships. The existing treatment plant is not equipped to meet the stricter standards that the drainage ditch discharge requires. Alton

<sup>1</sup> The Board notes that pursuant to 35 Ill. Adm. Code 304.104(a), current permits are issued requiring a "monthly average" rather than a "30-day average."

Packaging claims that the short time period of the alteration "does not justify the economics to upgrade the facilities." (Pet. p. 3). Furthermore, Alton Packaging asserts that the time period needed to upgrade the plant would be longer than that required for the line alteration. Another alternative would have the Corps construct a temporary outfall to the Mississippi River. However, Illinois Route 3 and railroad tracks lie between the treatment facility and the river. Since these arteries could not be blocked, the temporary effluent line would have to be buried beneath them. The Environmental Protection Agency (Agency) has classified this alternative as being "financially burdensome" and "technically difficult" when considering that the temporary line would only be needed for about one month. (Rec. p. 4). Consequently, Alton Packaging claims that in order to maintain compliance, major design modifications to the Corps' project would be necessary. These modifications would cause considerable cost increases as well as major scheduling changes for the Corps' project. (Pet. p. 4).

During the time that the Corps will be altering Alton Packaging's normal effluent line, they will also be dredging the main ditch through which Alton Packaging's discharge will flow. This main ditch is presently about two miles long, and according to Alton Packaging, it experiences periods of zero flow during the summer. The main ditch receives flow from other drainage ditches as well as flow from storm sewers of the City of Alton. Alton Packaging claims that the water quality in the main ditch is poor. Also, the banks of the main ditch lack cover, a factor which elevates the water temperature. Due to these conditions, Alton Packaging concludes that only tolerant species could survive in this main ditch. Most importantly, though, the dredging of this main ditch by the Corps will be quite disruptive. Alton Packaging quotes an environmental assessment which stated that the dredging project "will probably eliminate the existing aquatic community during construction." (Am. Pet. p. 1) Alton Packaging also claims that the Corps activity in the main ditch will churn up bottom sediments, thereby, creating biochemical oxygen demand and suspended solid levels higher than those from Alton Packaging's discharge. Therefore, Alton Packaging contends that there will be minimal environmental impact if a variance is granted, since the Corps will already be dredging the main ditch during the time of the variance (Pet. p. 3).

In its Recommendation, the Agency notes that the dredging activity by the Corps will leave "little or no biota in the ditch." Consequently, the Agency concludes Alton Packaging's discharge will have "minimal impact on the stream." It also notes that Alton Packaging's discharge is of "such quality that it would very nearly meet the 10/12 standard normally required to discharge in an intermittent stream." (Rec. p. 4). The Agency recommends that this variance be granted subject to several conditions. It specifically suggests that the variance should begin on the date of the actual effluent diversion and extend for

30 days or upon completion of the Corps' alteration of the effluent line, whichever occurs first. (Rec. p. 6, R. p. 11).

On a procedural matter, the Agency also recommends that the Corps name be deleted from the caption of this proceeding. Since Alton Packaging holds the permit and the action sought is a variance from this permit, then Alton Packaging should be the only named Petitioner. The Agency states that the Corps merely acted as an agent for Alton Packaging when it signed the Petition. (Rec. p. 5). Furthermore, the Agency asserts that although the Corps actions have forced Alton Packaging into seeking this variance, it is Alton Packaging, the permit holder, who is legally obligated to maintain compliance. (R. p. 11). On the other hand, Alton Packaging would like to keep the Corps name on this proceeding, because if it were not for the construction activities of the Corps, Alton Packaging would never have had to seek this variance. (R. p. 6).

### Findings

The Board finds that if this variance is granted, thereby allowing Alton Packaging to temporarily discharge its effluent into a drainage ditch undergoing construction, minimal environmental impact will result. The Board agrees that the construction of a temporary effluent line or the modification of the existing treatment facility would constitute an unreasonable expense and disruption given the short time frame. The Board notes that Alton Packaging is currently in compliance with its NPDES permit, which allows discharge directly into the Mississippi River. There is no reason to believe that Alton Packaging would not be in compliance once it is able to use its effluent line again.

Given the minimal environmental impact, the short duration of the variance, and the available compliance alternatives, the Board finds that Alton Packaging would suffer an arbitrary or unreasonable hardship if denied this variance. Therefore, the Board will grant Alton Packaging a variance from 35 Ill. Adm. Code 309.141, Terms and Conditions of NPDES Permits, and 35 Ill. Adm. Code 304.120, Deoxygenating Wastes. This variance will begin on the day the discharge is actually diverted to the drainage ditch and extend for a period of 45 days or until the Corps is finished working on Alton Packaging's effluent line, whichever occurs first. Although Alton Packaging anticipates that the construction on their effluent line will only take 30 days, the Board is allowing 45 days for this variance. This gives some leeway time in the event of unforeseen construction delays. It also helps avoid further time and effort on the part of Alton Packaging and the Board by reducing the chance of having to deal with a short-term variance extension. However, the Board requires that this variance period occur sometime within two years from this date.

With regards to the issue of captioning this proceeding, the Board will delete the Corps' name. The Agency correctly points out that Alton Packaging is the permit holder, and as such is the only party responsible for maintaining compliance. The variance is granted to Alton Packaging and not the Corps. The Corps merely submitted the Petition on behalf of Alton Packaging. (Pet. p. 1). Consequently, having only Alton Packaging's name upon the caption would more accurately reflect, for filing and reference purposes, the true parties to this variance petition.

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

#### ORDER

The Board hereby grants Alton Packaging a variance from 35 Ill. Adm. Code 304.141, Terms and Conditions of NPDES Permits, and 35 Ill. Adm. Code 304.120, Deoxygenating Wastes, subject to the following conditions:

- 1) Variance is effective for two years and shall commence on the date that the Petitioner's discharge is actually diverted from the effluent line to the drainage ditch and shall continue for 45 days or upon completion of the Corps' construction work, whichever occurs first.
- 2) Since the exact date when the temporary change in the location of the discharge will occur is uncertain, Petitioner shall notify the Agency's Collinsville Regional Office (618-345-6220) at least 24 hours in advance of the time the temporary change will occur. This notification shall be followed by written notification addressed to:

Illinois Environmental Protection Agency  
 Division of Water Pollution Control  
 Compliance Assurance Section  
 2200 Churchill Road  
 Springfield, Illinois 62706  
 Attn: Mike Severns

- 3) Petitioner shall notify the Agency as to when the work is completed as in #1 above.
- 4) Petitioner shall meet its NPDES effluent limits during the term of the variance.
- 5) Petitioner shall continue to operate and maintain its treatment works to produce as high a quality effluent as possible.
- 6) Petitioner shall execute and forward to the Environmental Protection Agency, Division of Water Pollution Control, Compliance Section, 2200 Churchill Road, Springfield, Illinois 62706, Attn: Jim Frost, and to the Pollution

Control Board within forty-five days after the date of the Board Order herein a Certificate of Acceptance and Agreement to be bound to all terms and conditions of the Variance, the form of said Certificate to be as follows:

CERTIFICATION

Alton Packaging Corp. a subsidiary of the Jefferson Smurfit Corporation, has received and understands the Order of the Illinois Pollution Control Board in PCB 86-71 and hereby accepts said Order and agrees to be bound to all of the terms and conditions thereof.

By \_\_\_\_\_

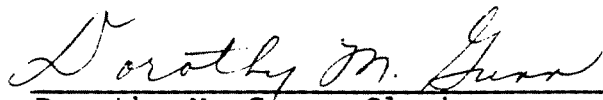
\_\_\_\_\_  
Title or Company Position

\_\_\_\_\_  
Date

IT IS SO ORDERED.

J. D. Dumelle and J. Anderson concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 9<sup>th</sup> day of October, 1986, by a vote of 6-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board



I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was submitted on the 10<sup>th</sup> day of October, 1986.

Dorothy M. Gunn 10/10/86  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board