

ILLINOIS POLLUTION CONTROL BOARD
December 29, 1983

GIFFORD-HILL-AMERICAN LOCK)
JOINT, INCORPORATED,)
)
Petitioner,)
)
v.) PCB 83-125
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by B. Forcade):

On August 30, 1983, Gifford-Hill-American Lock Joint, Inc. (GHA) filed a Petition for Variance, and on October 5, 1983, amended that Petition for Variance. GHA requests a four-year variance from 35 Ill. Adm. Code 807.305 (previously Rule 305(a) of Chapter 7) which requires a six-inch daily cover for GHA's on-site landfilling of its cement wastes. No hearing was held since GHA waived hearing and no objections were received. On November 23, 1983, the Illinois Environmental Protection Agency (Agency) filed its recommendation supporting a grant of variance if certain conditions were imposed.

GHA operates a reinforced concrete pipe manufacturing facility, which employs 150 people, at a 93 acre site in northern Winnebago County, Illinois (Pet., par.2). On a daily basis GHA uses approximately 255 tons of sand, stone and cement to mix with water in making concrete (Pet. par.3). At the end of daily operations approximately 2 to 4 tons of concrete, resulting from spillage, breakage and waste, are transported to the on-site landfill (Pet. par.4). Cull pipe and steel rods may be embedded in this concrete (Ag. Rec., par.6) . Disposal of the waste concrete without daily cover does not produce a noxious odor nor harbor rodents; quarterly tests of water quality on a nearby well have shown no change and the Winnebago Department of Public Health tests show the water is safe to drink (Pet., par.7). Any environmental impact from granting this Variance would be minimal or non-existent (Am. Pet., par.7; Ag. Rec., par. 10). The Agency has inspected this facility nine times in the last five years and found no environmental problems resulting from lack of daily cover during any of the inspections (Ag. Rec., par. 11). The Agency has received no complaints regarding operation of the site, nor objection to the grant of variance.

In a 1976 request for variance, compliance with the six-inch daily cover requirement was estimated to cost \$1,000 per week, there is no reason for this estimated cost to have decreased since then (Pet., par. 8, Ag. Rec., par. 13). The Agency believes that it would be arbitrary and unreasonable to impose this cost for the minimal environmental benefit derived from daily cover (Ag. Rec., par. 14). The Agency recommends granting the Variance subject to certain conditions (Ag. Rec., par. 18).

GHA purchased this facility from Interpace Corporation on July 3, 1981 (Ag. Rec., par.5). Previously Interpace had requested and received 3 variances similar to the present request from GHA.

<u>PCB No.</u>	<u>Date of Order</u>	<u>Effective date of Variance</u>
75-495	6/03/76	12/03/75-12/03/76
77-274	12/20/77	12/20/77-10/19/79
79-206	12/13/79	12/13/79-07/03/81

GHA is presently in violation of 35 Ill. Adm. Code 807.305 (Pet., par.5).

This Petition for Variance does not present difficult substantive issues to the Board. It is clear that lack of daily cover presents little if any environmental harm and that compliance with the daily cover requirement would pose an arbitrary or unreasonable hardship on GHA. However, this petition does present a significant procedural problem.

A variance petition must contain a detailed description of a proposed control program to achieve "full compliance" with the Act and regulations. 35 Ill. Adm. Code 104.120(f). The record indicates that since 1975, this facility has never had daily cover, and the petition for variance does not provide for ultimate compliance with a daily cover requirement. Consequently the Board will not grant a four year variance. However, due to the substantial evidence of little or no harm, as well as unreasonable compliance costs, the Board will grant a one-year variance to GHA subject to Agency requested conditions. The Board will impose, as an additional requirement of the variance, a condition that GHA submit, prior to the termination of this variance, a plan for compliance with the daily cover requirements of 35 Ill. Adm. Code 807.305. Prior to termination of this variance, and submission of the compliance plan, GHA may wish to apply for site-specific relief from that rule.

ORDER

Gifford-Hill American Lock Joint, Inc., is hereby granted a variance from 35 Ill. Adm. Code 807.305 subject to the following conditions:

1. This variance shall expire on December 29, 1984,
2. The exposed surface of Petitioner's site shall be limited to no more than one acre;
3. Disposal shall be limited to the relative height of adjacent improved terrain and to the type of materials previously handled at the site (such as concrete waste, cull pipe, and occasional steel rod embedded in the concrete);
4. Petitioner shall cover the exposed surface every 6 months with 1 foot of earthen material and with 2 feet of final cover at the end of the variance period,
5. Prior to the termination of this variance Petitioner shall submit to the Agency a plan for full compliance with 35 Ill. Adm. Code 807.305, and
6. Within 45 days of the date of this Order, Petitioner shall execute the Certification of Acceptance and agreement to be bound to the terms and conditions of this variance. This 45 day period shall be held in abeyance if this matter is appealed. The Certification shall be forwarded to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706.

I, (We), _____, having read the Opinion and Order of the Board of the Illinois Pollution Control Board in PCB 83-125, dated December 29, 1983, understand and accept the said Opinion and Order of the Board, realizing that such acceptance renders all terms and conditons thereto binding and enforceable.

 Petitioner

 By: Authorized Agent

 Title

 Date

IT IS SO ORDERED.

Chairman Jacob D. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order of The Board was adopted the 29th day of December, 1983 by a vote of 7-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board