

ILLINOIS POLLUTION CONTROL BOARD
May 13, 1982

SCA CHEMICAL SERVICES, INC.,)
)
) Petitioner,)
)
) v.) PCB 82-39
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by I. Goodman):

SCA Chemical Services, Inc. (SCA), a Delaware corporation qualified to do business in Illinois, petitioned for variance from Rules 202 and 210 of the Board's Chapter 7: Solid Wastes on April 8, 1982. SCA is currently involved in a two-phase program to reconstruct a hazardous waste incinerator and to construct a rotary kiln incinerator at its 11700 South Stony Island Avenue, Chicago, Illinois location. SCA seeks variance for six months to facilitate trial burns in the reconstructed incinerator. SCA has interim status in accordance with Section 3005 of the Resource Conservation and Recovery Act (RCRA), 42 USC 6925(e), and on April 26, 1982 was granted 120 days by the United States Environmental Protection Agency (USEPA) to conduct trial burns at this facility. For that reason on May 5, 1982, SCA moved for expedited consideration of its variance petition. That motion is hereby granted. The Illinois Environmental Protection Agency (Agency) filed its Recommendation on May 7, 1982.

Presently SCA has two permits from the Agency along with those issued by the USEPA and the City of Chicago. The Agency's Division of Air Pollution Control issued SCA a Construction Permit for reconstruction of the existing incinerator on August 10, 1981. This permit provided 180 days for SCA to conduct trial burns after reconstruction was completed and test burn procedures were submitted and approved by the Agency. (Pet., Attachment B). On the same day, the Agency's Division of Land/Noise Pollution Control issued SCA a Development Permit. This permit contains the two special conditions which create SCA's need for variance. Special Condition 1 states that this permit is for development only and that no waste may be received or processed at the facility until an Operating Permit is issued by the Land Division. Special Condition 7 states that special waste can only be received under the Agency's supplemental permit and manifest systems and that each waste stream accepted will require individual supplemental permits (Pet., Attachment C).

Pursuant to the Construction Permit, SCA must conduct trial burns before it can be issued an Operating Permit by the Agency's Air Division. Yet, the Development Permit does not provide for testing operations and, when taken in conjunction with the Special Condition 1, trial burns are prohibited until SCA obtains an Operating Permit. Rule 202(a) does provide an exception allowing testing operations if authorized by the Development Permit. However, this exception is not available to SCA since it is the Operating Permit issued by the Air Division, and not the Development Permit, which authorizes trial burns. Thus, SCA requires a variance from Rule 202(a) to be able to conduct the trial burns required in its Construction Permit. The special conditions contained in the Development Permit also bar SCA from receiving the wastes necessary to conduct a trial burn. Special Condition 1 allows SCA to only receive wastes after an Operating Permit is issued by the Land Division. Even if relieved of this requirement, Special Condition 7 allows SCA to only accept each waste stream under individual supplemental permits. SCA contends that the wastes for the trial burn are sufficiently detailed in the trial burns procedure to alleviate the need for these individual supplemental permits. Rule 210 would allow SCA to circumvent both difficulties if the Development Permit was modified by supplemental permits. Due to the time strictures of the USEPA and Agency Air Construction Permit, SCA seeks variance from Rules 202(a) and 210. If relieved of the permitting requirements contained in these rules, during the next 6 months SCA can obtain the materials necessary and conduct the trial burns pursuant to the Air Division's Construction Permit.

Apart from the problems posed by the conflicting permits, SCA requests relief from Rule 202(a) as it applies to the operation of another facility. The SCA facility does not have sufficient capacity to store and blend the amounts of waste and fuel required to conduct the trial burns. SCA proposes that the necessary wastes be received in accordance with the Agency's manifest system at another facility, and then transported as needed to the SCA facility, again under the manifest system. After surveying hazardous waste treatment, storage and disposal facilities within 50 miles, SCA found that Bulk Terminals Company (Bulk Terminals), is the only facility with sufficient excess storage capacity and within feasible proximity to satisfy SCA's temporary storage needs. Therefore, SCA seeks to utilize Bulk Terminals Company's facility without obtaining the Operating Permit required by Rule 202(a).

SCA represents that not only is this the only feasible alternative storage site, but that no environmental harm should result with its use. The facility is permitted by the City of Chicago to store Class IA flammable hazardous materials, the tanks to be used are equipped with individual foam fire protection, conservation vents and mixing systems, and since Bulk Terminals is located on the same street within 4000 feet of SCA,

the same roads will be used. The only additionally required operation will be truck loading and unloading, for which Bulk Terminals is equipped with a spill containment area.

If allowed to forego the permitting requirements, SCA will be able to properly conduct trial burns already authorized by the Operating Permit now issued. The testing procedure approved by the USEPA and committed to by the Agency should insure that the trial burns and shakedown will be conducted in an environmentally sound manner. SCA contends that granting variance is ultimately environmentally beneficial. Such relief will expedite fully permitting this facility in accordance with federal and state standards which will in turn provide an environmentally safe alternative to landfilling hazardous wastes.

SCA argues that denial of its variance petition will impose arbitrary and unreasonable hardship. If denied, SCA would have to request the Agency to modify the existing Development Permit. The delays in this process are unnecessary since Rule 202(a) contains a "testing exception" and the trial burns are already authorized in its Construction Permit. The alternative to obtaining an Operating Permit for offsite storage is for SCA to reduce the scope of its trial burn, which may result in inconclusive data. The supplemental permits now required for each waste stream serve only to delay and duplicate the plan already devised under the trial burn procedure.

In its Recommendation, the Agency noted that the USEPA has authorized off-site storage at Bulk Terminals and the trial burn procedure. The Agency agreed that granting variance would not cause environmental harm, and if denied SCA would suffer arbitrary and unreasonable hardship. The Agency also recommended variance from Rule 201 be granted so that SCA would obtain full relief from Special Condition 1 and Rule 202(a) and Special Condition 7 and Rule 210. Rule 201 requires that a Development Permit be obtained before development of a new solid waste management site or modification of an existing solid waste management site. SCA has such a Development Permit and by its variance petition is only requesting that it not be required to seek modification of it or supplemental permits. SCA is not asking that the requirement for a Development Permit be expunged. Therefore, variance from Rule 201 is unnecessary.

The Board construes the relief petitioned, except the request for off-site storage without an Operating Permit, as a request to resolve the inconsistencies between the two permits issued by the Agency so that the Petitioner may proceed to develop an environmental alternative to hazardous waste disposal. As the parties have not questioned the applicability of Chapter 7 to SCA's operation, the Board will not question this assumption.

The plan, including off-site storage at Bulk Terminals, proposed by SCA appears environmentally harmless, especially since it has already been subjected to careful review by the Petitioner, the Agency, and USEPA. Routing SCA's trial burn procedure through Chapter 7's permitting process instead of relieving these requirements by variance serves no environmental purpose. In fact, should the Development Permit have to be modified to correspond with the Operating Permit, the delays incurred would be arbitrary and unreasonable. The Board finds that expeditious development of an environmentally sound hazardous waste incinerator facility is environmentally beneficial since it proposes to dispose of hazardous wastes by destruction rather than storage in a landfill. Accordingly, SCA is granted variance from the permitting requirements contained in Rules 202(a) and 210 of Chapter 7.

ORDER

SCA Chemical Services, Inc., Petitioner, is granted variance from Chapter 7: Solid Wastes until Nov. 1, 1982, as follows:

- a) Rule 202(a) as it requires Petitioner to obtain an Operating Permit prior to conducting trial burns approved by the Operating Permit issued by the Agency's Division of Air Pollution Control.
- b) Rule 202(a) as it requires Petitioner to obtain an Operating Permit to store and blend wastes and fuels at Bulk Terminals Company for its trial burns; and
- c) Rules 202(a) and 210, as it requires Petitioner to obtain supplemental permits for each waste stream accepted at either Bulk Terminals Company or its facility for its trial burns.

Variance is subject to the following conditions:

1. Petitioner shall comply with Conditions A-J as set out in the Agency Recommendation, filed May 7, 1982, which Recommendation is incorporated by reference as if fully set forth herein.
2. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 82-39, dated _____, 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.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13th day of May, 1982 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board