ILLINOIS POLLUTION CONTROL BOARD March 1, 1979

| NESTLE COMPAN | Y, INCORPOR | ATED, |) | |
|---------------|-------------|---------|-------|--------|
| | Peti | tioner, |) | |
| v. | | |) PCB | 78-191 |
| ENVIRONMENTAL | PROTECTION | AGENCY, |) | |
| | Resp | ondent. |) | |

MR. DAVID G. HASSI, APPEARED ON BEHALF OF PETITIONER; MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

On July 18, 1978 Nestle Company, Incorporated, (Nestle) filed a petition for variance before the Board requesting relief from Section 9(a) of the Environmental Protection Act (Act) and Rule 203(a) of the Air Pollution Control Regulations (Regulations) until March 15, 1979 for its instant tea manufacturing facility located in Granite City, Madison County, Illinois. A hearing was held in this matter; the Board has received no public comment.

Nestle utilizes the spent tea leaves from its process as fuel for a dryer and a process steam boiler. The spent leaves are first dried in the dryer, after which the bulk of the dried tea leaves are cycled to the dryer burner making the dryer essentially self-sustaining. The remainder of the dried spent tea leaves are utilized along with wood chips derived from scrap tea chests as fuel for the process steam boiler. Exhaust is through a cyclone collector in both cases, which in the case of the dryer acts primarily as a dried spent tea leaf recovery process. The calculated quantity of allowable particulate emissions under Rule 203(a) of the Regulations is 16.5 tons per year, while present emissions based on stack tests conducted in May, 1978 are about 58 tons per year. Nestle proposes to install a second high efficiency cyclone, and the Agency agrees that the proposed cyclone may meet the allowable emissions limitation under Rule 203(a). Nestle has presented a proposed compliance schedule on page 4 of its July 18, 1978 petition, which was updated by a Nestle witness at the hearing.

Nestle alleges that denial of the variance would impose a financial hardship of some \$425,000 incurred in operating expenses. Although it believes the financial hardship claimed by Nestle may be somewhat overstated, the Agency agrees that the cost to Nestle is substantial. The Granite City area is designated as nonattainment for primary particulate standards. However, it is probable that monitoring stations are not substantially affected by emissions from Nestle since its total emissions presently exceeding the standard are less than 50 tons per year of particulate matter, and the evidence indicates that most of that weight consists of particles of large diameter that settled within the Nestle The Agency believes the time requested for the property. installation of the equipment is reasonable and recommends grant of the proposed variance.

The Board finds that Nestle cannot presently comply with the standards of Rule 203(a) of the Regulations. Considering the short length of time requested for the variance and the apparent lack of environmental harm, the Board finds it would be an arbitrary and unreasonable hardship on Nestle to deny the variance. The Board will, therefore, grant Nestle the requested variance until March 15, 1979, under certain conditions.

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

ORDER

It is the Order of the Pollution Control Board that Nestle Company, Incorporated, be granted variance from Section 9(a) of the Environmental Protection Act and Rule 203(a) of the Air Pollution Control Regulations until March 15, 1979, for its facility located in Granite City, Illinois, under the following conditions:

- A. Nestle shall execute the proposed schedule of compliance contained in its July 18, 1978 petition, which petition is incorporated by reference as if fully set forth herein.
- B. Nestle shall post a performance surety bond in the amount of \$2,000 for the purpose of assuring compliance with the Regulations pursuant to the Environmental Protection Act. The bond shall be submitted to the Agency, at the following address: Environmental Protection Agency, Division of Air Pollution Control, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois 62706.

C. Within 45 days of the adoption of this Order, the Nestle Company, Incorporated, shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

| I (We), fully understanding the Orde Board in PCB 78-191, hereby bound by all of the terms an | having read and r of the Illinois Pollution Control accept said Order and agree to be d conditions thereof. |
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| | SIGNED |
| | TITLE |
| | DATE |
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| Control Board, hereby certif | Clerk of the Illinois Pollution by the above Opinion and Order day of Market |
| | Christan L. mossou |
| | Christan L. Moffett//Clerk Illinois Pollution Control Board |