

ILLINOIS POLLUTION CONTROL BOARD
March 28, 1977

DE SOTO, INC.,)
)
) Petitioner,)
)
) v.) PCB 76-257
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

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

This matter is before the Board on a Petition for Variance filed October 15, 1976, by Petitioner De Soto, Inc. (DeSoto), seeking Variance from Rule 702 of Chapter 3: Water Pollution, of the Board's Rules and Regulations. PCB Regs., Ch. 3, Rule 702 (1976). The Environmental Protection Agency (Agency) filed its Recommendation on November 24, 1976. No hearing was held in this matter.

DeSoto's paint manufacturing plant in Chicago Heights has been the subject of two prior Variance cases. De Soto, Inc. v. EPA, PCB 75-277, 19 Ill. PCB 53 (1975) (Rehearing Denied, 19 Ill. PCB 296). De Soto, Inc. v. EPA, PCB 75-449, 19 Ill PCB 781 (1976). The nature and extent of DeSoto's operations are detailed in those cases and need not be repeated here. It is sufficient to note that DeSoto used phenyl mercurial preservatives in its latex paint prior to 1973, and again briefly in 1975.

In the more recent of the previous Variance cases, DeSoto was granted relief from the 0.0005 mg/l limitations on mercury discharges to sewers for a period ending October 16, 1976. Through a gradual process of dilution, the mercury remaining in its wastewater treatment lagoons was to have been discharged over the Variance period until compliance was attained.

However, DeSoto found in September and October of 1976 that the levels of mercury compound in its treatment lagoons (and therefore in its discharges) was actually increasing. DeSoto determined that, as a result of extremely dry weather during the summer of 1976 and resulting low water levels in the lagoons, the floating aerators in the lagoons were causing the resuspension or solution of mercury compounds previously trapped in sludge at the bottom of those lagoons.

To correct this problem, DeSoto proposed to sequentially dry and dredge each of five lagoons in its wastewater treatment system. DeSoto estimated that this would take approximately 62 working days, after which mercury levels would gradually decrease to compliance with the 1/2 ppb level required by Rule 702. DeSoto also anticipated that, because of poor winter weather and the several holidays during the work period, an additional two to three weeks would be required to complete the necessary dredging. After that work was completed, the remaining mercury in the various lagoons would be discharged gradually in a manner similar to that required in PCB 75-449.

DeSoto estimated that during the first 18 weeks of the Variance period, mercury levels might reach 20 ppb, with levels during the next 10 weeks as high as 15 ppb. Compliance was to have been reached by October 1, 1977.

Before the Board could enter a decision on those facts, however, DeSoto filed a Motion on December 10, 1977, asking that the entry of a final Opinion and Order in this matter be deferred. DeSoto stated that the information submitted to the Board in the Oct. 15, 1977 Petition contained significant errors as to mercury concentrations. DeSoto had found that a reagent used in its laboratory for mercury analysis actually contained mercury itself, so that all prior analyses were incorrect by up to 12 ppb. In an Interim Order entered Dec. 16, 1977, the Board granted DeSoto eight weeks for further analysis and the submission of additional documents.

DeSoto filed a "Response to Recommendation" on February 10, 1977, to which the Agency replied on March 24, 1977. During the interim, DeSoto proceeded with the dredging program outlined above, and reanalyzed the concentration of mercury in its wastewater system. It is now apparent that DeSoto's mercury problem is not as great as previously estimated, although some mercury does remain. DeSoto has adjusted the Variance request to reflect this change, and now seeks permission to discharge 3 ppb to the Bloom Township sewers initially, with gradual decrease until the .5 ppb standard is achieved in September 1977.

The Board has previously found that DeSoto's effluent has little or no effect on the final effluent of the Bloom Township Sanitary District; DeSoto contributes less than 1 percent of the District's total flow. In addition, the Agency's Recommendation notes that no mercury has been detected in tests of that Sanitary District's effluent.

In light of these facts, and DeSoto's continuing good faith efforts to eliminate its mercury discharges (in addition to \$400,000 spent on research and study of non-mercurial biocides, and a \$100,000 cost of the dredging required under DeSoto's compliance plan), we feel that a Variance is warranted. As noted in PCB 75-449, we agree with DeSoto and the Agency that mercury removal at the levels indicated is impractical.

Because of the greatly decreased concentrations of mercury to be discharged during the Variance, we shall release DeSoto from the strict monitoring and reporting requirements which were present in the prior Variance. A standard Certificate of Acceptance shall be required.

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:

1. Petitioner De Soto, Inc., be granted a Variance from Rule 702 of Chapter 3: Water Pollution, from October 16, 1976 until October 1, 1977, subject to the following conditions:

a. The average concentrations of mercury in DeSoto's final effluent shall not exceed the following levels:

Through May 31, 1977	3 ppb
June 1, 1977 - July 31, 1977	2 ppb
July 31, 1977 - Sept. 30, 1977	1 ppb
October 1, 1977	0.5 ppb

2. Within thirty (30) days of the date of this Order, Petitioner shall execute and forward to the Environmental Protection Agency, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance in the following form:

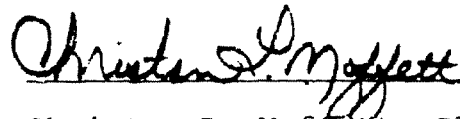
I, (We), _____ having read the Order of the Illinois Pollution Control Board in case No. PCB 76-257, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 28th day of March, 1977, by a vote of 50.

A handwritten signature in cursive script, reading "Christan L. Moffett", written over a horizontal line.

Christan L. Moffett, Clerk
Illinois Pollution Control Board