

ILLINOIS POLLUTION CONTROL BOARD  
June 18, 1976

LEHIGH PAVING COMPANY, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 76-94  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 ) Respondent. )

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board as a Petition for an Extension of a Variance from Rule 203(a) of the Chapter 2: Air Pollution Regulations. The original variance, PCB 75-298, was granted on October 16, 1975 and expires July 30, 1976. The Petition for Extension now before the Board was filed April 7, 1976. The Agency Recommendation was filed June 1, 1976. Petitioner's response to the Agency Recommendation was filed June 11, 1976. No hearing was held in this matter.

The Board takes notice of the facts and opinion of PCB 75-298.

Lehigh Paving Company (Lehigh), owner and operator of an asphalt paving plant, requests this extension on the basis that there has been delay over which Petitioner has had no control. Koch Engineering Company (Koch) is the manufacturer of the control equipment to be installed. According to the original compliance plan Koch was to have prepared drawings for approval in two to three weeks and shipment was to be within ten weeks after approval of the drawing. However it actually took Koch eleven weeks to prepare the drawings for approval, and shipment is not scheduled until the first week in July, 1976. By the time the equipment arrives in mid-July there will have been a five month delay from the February 15, 1976 date in the original compliance plan. On the basis of this delay Lehigh is asking the Board to extend the variance from Rule 203(a) until December 1, 1976 (the estimated end of the 1976 operating season) in order to avoid arbitrary and unreasonable hardship to Lehigh and its employees.

The Agency recommended that the variance be extended only to August 15, 1976 and then it would be subject to conditions. The basis of this position is that the Agency states that the equipment should require no more than three

weeks or 100 hours to install, The Agency states, "Lehigh is expected to receive the equipment during the first week of July, 1976"; the petition states shipment is scheduled for the first week in July 1976. This leaves the arrival date indefinite. Lehigh claims the installation will take three months. Petitioner's normal asphalt production output is during 100 to 120 days of operation per year from May through November. The production schedule is limited due to weather conditions (Agency Recommendation at 2). As Lehigh cannot install the equipment and make asphalt paving at the same time, timing in July, a good weather month, would be critical to Petitioner's business. Considering these timing factors and the time schedule of the original variance the Board finds that Petitioner's request for extension is reasonable. However, the Board must also consider whether Petitioner will contribute to a violation of the ambient air quality standards. The two monitoring stations in Petitioner's region are Champaign and Bloomington. In 1975 the Champaign station, located approximately 25 miles SSW of Petitioner's asphalt plant, registered an annual geometric mean particulate level of 46 micrograms per cubic meter of air. The Bloomington Station, located approximately straight west of Petitioner's asphalt plant, registered an annual geometric mean particulate level of 64 micrograms per cubic meter. The State and Federal ambient particulate primary standard allows an annual geometric mean concentration of 75 micrograms per cubic meter of air. This information and the information used in the prior proceeding indicate that Petitioner's particulate emissions will not cause or contribute to a violation of State or Federal ambient air quality standards. Under these conditions the Board finds that extension of the variance to November 1, 1976 is justified. This allows Petitioner time to install the equipment and guarantee its operation for the 1977 season.

The Board does note that Lehigh has been dilatory in sending its monthly reports and posting the performance bond, conditions of the first variance. The Agency has received only two monthly reports and the performance bond which was to have been provided by November 15, 1975 was not provided until May 10, 1976. The monthly progress reports remain a condition of any extended variance.

The Agency Recommendation urges the Board as a condition of the variance to limit Petitioner to emitting no more than 3 pounds per hour from the wet scrubber exhaust stack at a process weight of 120 tons per hour. This recommendation is based on several factors. First, the families of the two

residences proximate to the plant, being approximately one fourth mile from the plant, object to the extension of the variance because of the emissions. Second, Lehigh's present emission is 36.3 pounds per hour. The regulated limit is 32.7 pounds per hour. The Agency does not feel that a reduction of 3.6 pounds per hour will reduce the number of complaints it receives on the facility and that Lehigh will still be causing air pollution in violation of Section 9(a) of the Act.

The Board finds that such a limitation would be inappropriate at this time. Petitioner's equipment is yet to be installed and its efficiency is theoretical. If the Agency's calculations are correct, the equipment should be capable of 99.9% efficiency which should reduce emissions to 2.6 pounds per hour at a process weight rate of 120 tons per hour. This figure is less than one tenth of the emission limitations established by our regulations. Even if Lehigh's equipment should not reach this efficiency rate or should do so only part of the time, it would appear that the emissions should be reduced to well under the 32.7 pounds per hour standard. Thus it is premature to determine at what point Lehigh would still be causing a violation of Section 9(a) of the Act.

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

#### ORDER

It is the Order of the Pollution Control Board that Petitioner, Lehigh Paving Company, be granted a Variance from Rule 203(a) of Chapter 2: Air Pollution, of the Illinois Pollution Control Board Rules and Regulations, until November 1, 1976, subject to the following conditions:

1. Petitioner shall apply for and obtain from the Environmental Protection Agency all appropriate construction and operation permits.
2. Petitioner shall, on the first day of each month after the date of this Order, submit to the Agency a report detailing progress toward completion of the compliance program. Those reports shall be submitted to the following address:

Environmental Protection Agency  
Control Program Coordinator  
Division of Air Pollution Control  
2200 Churchill Road  
Springfield, Illinois 62706

- 3. Within 30 days of this order Petitioner shall execute and forward to the above address and the Pollution Control Board, the following certification of acceptance:

CERTIFICATION

I (We), \_\_\_\_\_, having read the Order of the Illinois Pollution Control Board in Case No. PCB 76-94, 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 that the above Opinion and Order were adopted on the 18<sup>th</sup> day of June, 1976 by a vote of 5-0.

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