

ILLINOIS POLLUTION CONTROL BOARD
January 20, 1977

DEERE AND COMPANY,)
(JOHN DEERE PLOW & PLANTER WORKS),)
)
Petitioner,)
)
v.) PCB 76-275
)
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 by Deere and Company (Deere) on November 1, 1976, seeking relief from the hydrocarbon emission limitations in Rule 205(f) of Chapter 2: Air Pollution, of this Board's Rules and Regulations. Ill. PCB Regs., Ch., 2, Rule 205(f) (1976). A Recommendation was filed by the Environmental Protection Agency (Agency) on December 20, 1976. No hearing was held in this matter.

The relief sought here for Petitioner's Moline, Illinois facility is actually an extension of similar relief granted by the Board in a previous case. Deere and Company v. EPA, PCB 76-82, ___ PCB ___, (June 18, 1976). We there granted permission for Deere to emit hydrocarbons at a rate greater than that allowed by Rule 205(f), with which Rule Deere had previously been in compliance. We granted the Variance to allow a conversion from "exempt" solvents to photochemically reactive materials to allow testing of a pilot solvent recovery system, designed to "capture and reuse photochemically reactive material." Id., Opinion at 1. Such testing is necessary, "to ascertain whether an 85% control efficiency can be achieved." Id., at 2.

Our Opinion in PCB 76-82, supra, adequately describes Deere's operations at Its Plow and Planter Works, and the emissions likely to result under the Variance. Under the circumstances, our analysis there is sufficient, and need not be repeated here. Only two issues need discussion.

First, Deere pleads that the requested extension is necessary only as a result of factors beyond its control: The testing envisioned under PCB 76-82 has not been completed because of a strike at the subject facility. Recommending that the Variance be granted, the Agency states that, "[t]he delays . . . caused by the labor strike are not delays for which Deere and Company should be penalized." Agency Rec., ¶5, at 2. We agree. Stepan Chemical Co. v. EPA, PCB 76-268, ___ PCB ___, (January __, 1977; City of St. Charles v. EPA, PCB 74-176, 13 PCB 269 (1974)).

Second, the Agency Recommendation notes that the only danger which might arise under the grant of such a Variance is not present in this case. Cf., PCB 76-82, supra, _____ PCB _____ (Dissenting Opinion of Mr. Dumelle) (June 18, 1976). We agree that it is unlikely that ozone problems might arise in continued testing during the winter months. See, Abitibi Corp. v. EPA, PCB 75-207 (November 6, 1975), Opinion at 3.

We find that the same factors leading to the Variance grant in PCB 76-82 apply here, and support the grant of the requested Variance.

Finally, Deere requested that the Variance be granted "for 40 working days (2 months) after the strike is settled and factory operations are resumed." Pet., at 2. The Agency Recommendation infers, (¶2, at 1), that the strike was settled on November 9, 1976. We shall grant the requested Variance from that date.

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. Deere and Company be granted Variance from Rule 205(f) of Chapter 2: Air Pollution, for its Plow and Planter Works in Moline, Illinois, from November 9, 1976 until January 9, 1977.
2. Petitioner Deere shall, within thirty-five (35) days of the date of this Order, execute and forward a Certificate of Acceptance (in the form shown on the succeeding page) to the following address:

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

CERTIFICATE OF ACCEPTANCE

I, (We), _____ having read
the Order of the Illinois Pollution Control Board in
case No. PCB 76-275, understand and accept said Order,
realizing that such acceptance renders all terms and
conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

Mr. Jacob D. Dumelle abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution
Control Board, hereby certify the above Opinion and Order were
adopted on the 20th day of January, 1977, by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board