

ILLINOIS POLLUTION CONTROL BOARD  
December 4, 1975

UNION OIL COMPANY OF CALIFORNIA, )  
(LEMONT REFINERY), )  
Petitioner, )  
 )  
v. ) PCB 75-342  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
Respondent. )

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

This Matter is before the Board on a Petition for Variance submitted by Petitioner Union Oil Company on September 5, 1975, seeking relief from the cyanide effluent standard in Rule 403 of Chapter 3: Water Pollution. Previous Variances have been granted from the cyanide standard for Petitioner's Lemont Refinery in PCB 72-447, 10 PCB 217 (1973), and PCB 74-333, 14 PCB 623 (1974). The instant Variance is sought for the period December 6, 1975 to December 6, 1977. An invalid hearing was held, without a hearing officer, on November 10, 1975.

The record in this matter is deficient in the following respects:

1. Petitioner states that as of May, 1975, it has already installed a temporary facility for the incineration of cyanide-bearing wastewaters. Petitioner also states that it will take at least one year to complete the installation of a permanent system, during which time it will "from time to time have to revert back to prior operations" (emphasis supplied). Further, information submitted by the Agency, (and included by reference in the Petition), indicates that Petitioner is presently achieving cyanide discharge concentrations much smaller than the limits requested in the Petition.

It is not clear from the pleadings whether the present low effluent concentrations are the result of present operation of the temporary incineration facilities. Nor is it clear whether Petitioner could achieve those low concentrations throughout the period of the Variance, were it to continue operation of the temporary incineration system, or even whether such continued operation of the temporary system is in fact possible during construction of the permanent incineration facilities. Petitioner's reference to "prior operations" is not sufficiently clear to allow the relief

granted, in that the Board is unable to judge the effect on the environment.

2. Petitioner now claims that it has arrived at a final compliance program, its past Variances having been based on the "research" type of compliance plan. Petitioner states only that its incineration plan "is expected to result in compliance on a monthly average basis much of the time." This is plainly insufficient as a final compliance plan.

3. The Agency in its Recommendation raised the issue of the ultimate fate of the Cyanide-bearing wastewater which Petitioner intends to incinerate at "a petroleum coke calcining facility located near the refinery." More importantly, the Petition does not show whether Petitioner will have sufficient control over the nearby calcining facility to insure continued and/or constant availability of that facility's excess heat, which is allegedly necessary to oxidize all cyanide present in the wastewater.

Unless these issues are more fully addressed by Petitioner, the Board cannot grant the requested Variance. We note that Petitioner has waived its statutory 90-day decision period until December 11, 1975. While it is not our wish to dismiss this matter without allowing the introduction of additional evidence, we cannot allow the grant of the requested Variance by virtue of inaction during the required decision period.

#### ORDER

1. The Variance Petition in this matter shall be dismissed without prejudice unless Petitioner timely waives its right to a decision in the matter until a date not earlier than 30 days after the Board has received the complete record subsequent to a further hearing, such hearing to be held pursuant to part 2 of this Order. Such Waiver will be considered timely if filed on or before December 10, 1975.

2. Should Petitioner submit a timely waiver of its right to a decision, the matter is remanded to the hearing officer and the parties for a hearing to be held within 60 days of the date of this Order, such hearing and any further appropriate pleadings to address, as a minimum, the issues raised in the foregoing Interim Opinion of the Board.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order were adopted on the 4<sup>th</sup> day of December, 1975 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board