

ILLINOIS POLLUTION CONTROL BOARD
March 26, 1975

ALTON BOX BOARD COMPANY,)
) Petitioner,)
))
))
))
)) v.) PCB 74-491
))
))
))
ENVIRONMENTAL PROTECTION AGENCY,)
) Respondent.

MR. KARL K. HOAGLAND, JR., Attorney of Record for Petitioner;
MR. HENRY J. HANDZEL, JR., Attorney of Record for Respondent.

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

Alton Box Board Company (Alton) filed a request for an extension of a previously granted variance on December 31, 1974 relating to discharges from its Alton paper mill. The Environmental Protection Agency (Agency) filed a request for hearing and a recommendation on February 6, 1975. On February 27, 1975 the Pollution Control Board (Board) entered an order denying the Agency's request for hearing but allowing the parties 10 days to submit additional information with respect to the variance extension and allowing an additional five days for the filing of rebuttal statements by March 14, 1975. Alton filed a response to points raised in the Agency recommendation on March 7, 1975. The Agency filed a rebuttal statement on March 17, 1975.

Alton seeks to extend the variance granted by the Board in Alton Box Board Company v. EPA, PCB 73-140, 9 PCB 15 (August 9, 1973), as extended by the Board pursuant to the order in Alton Box Board Company v. EPA, PCB 74-5, 13 PCB 63 (July 18, 1974). The extension Alton seeks is a one-year extension to and including April 6, 1976. The extension granted in PCB 74-5 was the result of a stipulation and an agreement between the Agency and Alton with respect to the variance proceedings and two separate enforcement actions (PCB 73-61, 74-51, and 74-15). Alton stipulated that the Board could take official notice of the prior proceeding and the petition for variance in PCB 73-140 and the petition for extension of variance in PCB 74-5. Alton alleges that it fully and timely complied with all the Board requirements and conditions set forth in the Board order in the two previous variance actions. Alton further alleged that to deny the variance extension would impose an arbitrary and unreasonable hardship.

The Agency, in its recommendation to deny the variance extension, denied that Alton was in complete compliance with the conditions of the previous Board orders. The Agency raised a series of points of the prior Board order, on a paragraph by paragraph basis, which it believed Alton had failed to comply with. Based upon this analysis, the Agency recommended that the Board deny the variance petition until Alton submitted adequate proof that it had complied with the prior Board order or that failure to comply with the conditions were due to circumstances beyond the control of Alton. The Agency further recommended that if the variance be granted that certain specific conditions be attached.

The Response To The Point Raised In The Agency's Recommendation filed by Alton on March 7, 1975 answered many of the points raised by the Agency's recommendation. The Agency noted, in its rebuttal to Alton's response, that Alton had shown that 59 working days were lost between June 4, 1974 and February 14, 1975 due to labor problems, mechanical breakdowns of equipment and inclement weather. Alton further provided data indicating that it incurred expenses of \$6,391.19 in order to keep the impoundment area at a low water level. Based upon the information provided by Alton in the March response, the Agency stated it believed that "Alton had substantially complied with the requirements of paragraph 1, 3, 4a, 4b, 4c, 4d, 4e, and 6 of the Board's order in PCB 74-51". The Agency, however, stated that it still felt that Alton had failed to provide sufficient data to justify non-compliance with paragraph 2, 4f, and 5 of the Board's order in PCB 74-51.

The Board agrees with several questions submitted by the Agency. Paragraph 3 of the order in PCB 74-51 required that Alton "immediately construct and operate a means to divert Alton mill effluent directly to the Mississippi River...by July 30, 1974". Alton has stated that it did not achieve compliance with paragraph 3 until March 6, 1975. It should be pointed out that the Board granted the extension in PCB 74-51 as part of an overall settlement of the variance and enforcement cases. One enforcement case dealt with a very grave hydrogen sulfide (H₂S) emission problem resulting from the impoundment of Alton's high BOD and sulfate effluent. The parties agreed, and the Board ordered, that Alton discharge its effluent directly to the Mississippi River no later than July 30, 1974. Alton in its response stated that "it would be a fair statement to say that it was a well-known fact that the original dates specified in the stipulation could not possibly be met at the time the stipulation was approved by the Board". The Agency disputes this "well-known fact" and stated that "the Agency did indeed expect these dates to

be adhered to in accordance with the conditions of the stipulation". The Board agrees with the Agency. A date contained in a Pollution Control Board order is to be complied with. Alton should need no reminder that it has filed a substantial bond to insure compliance with the terms and conditions of the original variance and the order extending the original variance. This order required installation of the pipeline by July 30, 1974. If Alton could not comply with this provision of the suggested order, then Alton should not have agreed and so submitted that provision. If Alton cannot comply with a date or provision of a Board order, then Alton should seek to modify that order through an appropriate variance proceeding (or, if timely, a motion to modify pursuant to Procedural Rule 334). The installation of the pipeline was an integral part to the prior Board order.

The Board further agrees with the Agency that Alton has failed to adequately comply with paragraph 2 of the order in PCB 74-51. This paragraph required Alton to neutralize, treat or remove any odor-producing sludge which had accumulated in the impoundment area on a one-time basis so as to prevent future emission of offensive odors to the atmosphere which could result from said sludge. While paragraph 2 required that Alton take these steps once Alton had constructed and operated a means to divert its effluent directly to the Mississippi River, as discussed in the prior paragraph, this pipeline was to have been constructed no later than July 30, 1974. Alton in its response stated that it had undertaken some action and that a report from its consultant was expected within a month. The Agency stated any variance extension should be conditioned upon the submittal of an acceptable program for accomplishing the prior requirement of paragraph 2 of the previous Board order. The Board agrees with this Agency recommendation and will so condition the grant of this variance extension.

Paragraph 4f of the prior variance extension required Alton to "dispose of any sludge removed from the sludge lagoon or clarifier in a manner acceptable to the Agency". Alton has removed an accumulation of sludge from the lagoon and stock piled it adjacent to the lagoon. Although Alton states that it has "not disposed" of the sludge as of yet, Alton has clearly "removed" such sludge from the lagoon. The Board will condition an extension of this variance upon requirement that Alton submit a report setting forth an engineering program acceptable to the Agency for disposal of the sludge removed from the sludge lagoons or clarifier.

Paragraph 5 of the previous order required Alton to "prepare and implement an Agency-approved water pollution control abatement program for effluent to the ditch on the northside of the Alton mill property". Alton correctly states that no time limit was imposed for the preparation of an Agency-approved water pollution abatement program for this effluent. Alton states that it has undertaken an engineering program to identify and locate sources of effluent within its plants during September through November of 1974. The Agency states that compliance with the requirement for this effluent was necessary by December 31, 1974. Therefore, the Agency recommends that before Alton should be granted a variance for this effluent, that Alton should submit a preliminary plan for abatement of this discharge within 45 days of the date of the Board order or in the alternative the Agency recommends that a variance be denied for this discharge. Rather than deny the variance the Board will condition the variance extension upon a submittal of a preliminary plan within 45 days.

The Agency recommends that any grant of a variance extension be conditioned upon the imposition of numerical limitations on Alton's discharge. Alton states that the Agency recommendations for numerical limitations, which are found in Table I of Agency Exhibit 2, which accompanied the Agency Recommendation, and were based on a single test and may not be representative of those contaminants under any and all conditions. Alton further states, however, that, it would have no objection to the imposition of these numerical limits so long as the basic intention of the parties to provide a sufficient and complete variance from these effluent limits is not violated. Because of the long Board policy in imposing upper numerical limitations on variances whenever possible, the Board will condition the variance extension from Rule 408 upon such limitations. Should Alton not maintain its effluent within such limitations it can take appropriate action.

The Board finds with the exception of those portions of the Board order previously discussed, that Alton has established substantial compliance with the previous Board order and that to deny such variance extension would impose an arbitrary and unreasonable hardship. For these reasons the Board will extend the previously granted variance subject to those conditions which have been previously discussed.

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

ORDER

The Pollution Control Board hereby extends the variance

previously granted in PCB 74-5 to Alton Box Board Company from April 6, 1974 until April 6, 1976 subject to the following conditions:

(1) That this variance shall be limited to Rules 402, 403, 404(b) and 408(a) as to Iron (total), Iron (dissolved), Lead (total), Manganese (total), Oil (Hexane solubles or equivalent), Phenols, and Total Dissolved Solids and 408(b), 408(c), and 962 of Chapter 3, and a limited variance from Section 12(a) of the Act. The variance from Section 12(a) is to be limited to the discharge of BOD₅, Total Suspended Solids, Total Dissolved Solids and the contaminants specified under Rule 408(a) above.

(2) That the variance from Rule 408(a) shall be limited to the following:

Iron (total)	4.0 mg/l
Iron (dissolved)	2.0 mg/l
Lead (total)	1.0 mg/l
Manganese (total)	1.5 mg/l
Oil (Hexane Solubles or equivalent)	40.0 mg/l
Phenols	1.0 mg/l
Total Dissolved Solids	5,000 mg/l

(3) That Alton shall comply with the following schedule:

(a) Until August 31, 1975, Alton's discharges shall not exceed 130 mg/l of suspended solids as a monthly average nor 260 mg/l of suspended solids as a daily maximum based on a 24-hour composite sample at any time.

(b) Completion of conversion to 100% secondary fiber shall be attained by June 30, 1975.

(c) Interim effluent limitations of 20,000 lbs of BOD₅ as a daily average and 40,000 lbs of BOD₅ as a daily maximum, and 4,200 lbs of suspended solids daily average and 8,400 lbs of suspended solids as a daily maximum shall be attained by August 31, 1975.

(d) Progress reports on Stages 3 and 4 shall be submitted on February 28, 1976 to the Agency.

(e) Preliminary wastewater treatment plant plans and specifications shall be submitted by March 31, 1976 to the Agency.

(f) Completion of Stage 4 and compliance with the standards of 20 mg/l of BOD₅ and 25 mg/l of suspended solids shall be attained by June 30, 1978.

(g) Attainment of all the requirements for Rule 408 shall be made by June 30, 1978.

(4) That Alton collect samples for all parameters set forth in Table 1 contained in Agency Exhibit 2 at least once every six months. That the company collect samples and report analysis for all parameters included within paragraph 1 of this order on a monthly basis to the Agency.

(5) That Alton submit a report within 30 days detailing the steps which it has taken and intends to take to neutralize or treat the sludge remaining in the impoundment area.

(6) That Alton submit within 60 days a report setting forth an engineering program acceptable to the Agency for disposal of sludge removed from the sludge lagoons or clarifier.

(7) That the pipe and pump station for diverting its effluent directly to the river is kept operating during this variance extension.

(8) That Alton continue to provide monthly progress reports on items yet to be completed as required in the prior Board orders PCB 73-140, August 9, 1973, and PCB 74-5, August 29, 1974.

(9) That Alton procure all permits necessary for implementation of its abatement program.

(10) That the performance bond posted in PCB 73-140 remain in full force and effect and be so modified as to assure performance of the conditions of this variance.

(11) That Alton file a statement with the Board and the Agency accepting all the terms and conditions of any variance extension within 35 days from the date of the Board order.

(12) That Alton submit to the Agency an acceptable abatement program for discharges from the water treatment facility to the ditch on the north side of Alton mill property within 45 days of the date of the Board's order.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 26th day of March, 1975 by a vote of

4-0.


Christan L. Moffett, Clerk

Illinois Pollution Control Board