ILLINOIS POLLUTION CONTROL BOARD
December 20, 1973

TEXACO, INC. PETITIONER v. ENVIRONMENTAL PROTECTION AGENCY RESPONDENT	)	PCB 73-262

MR. CHARLES IRVIN, ATTORNEY, in behalf of TEXACO, INC.
MR. KENNETH J. GUMBINER, ASSISTANT ATTORNEY GENERAL, in behalf of the ENVIRONMENTAL PROTECTION AGENCY

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This cause comes to the Board on Texaco, Inc.'s petition for a variance filed June 25, 1973, from Rule 205 (g) of the Air Pollution Regulations. The Environmental Protection Agency's recommendation filed August 29, 1973, recommended a denial of the variance, and in the alternative, if a variance is granted by the Board, certain conditions be attached to the granting of the variance as discussed below. A hearing was held on November 14, 1973. No members of the public were present. Texaco in a letter dated July 11, 1973, waived the 90-day requirement of Section 38 of the Environmental Protection Act.

Texaco operates a refinery adjacent to the city of Lockport, Will County, Illinois. This plant employs 800 people (R. 11) and has been located at the present site since 1911 (R. 14). The plant's principal products are: gasoline, middle distillates, aviation fuel, and heavy fuel oil (R. 14). The refined products of this plant are sold in Illinois (R. 16). 13-15% of the plant's production is aviation jet fuel (R. 24).

The operation in the plant that concerns us in this Petition for variance is an agitator treating unit. This unit is used to remove mercaptans from the middle distillate aviation fuel to make the fuel usable under standards set forth by the American Society of Testing Materials (R. 35 Pet. 2).

Untreated middle distillate kerosene is brought to the unit and charged to one of the two agitator treating vessels. A chemical doctor solution is then added to the middle distillate. These two solutions are then physically mixed using both a mechanical mixer in the side of the agitator and air mixing at the bottom of the tank. Then the doctor solution is withdrawn from the tank for storage, until enough is present to transfer and have the doctoring solution regenerated. The treated kerosene is transferred to bleaching tanks where steam is introduced in order to remove all traces of the chemical in the kerosene (R. 33-36).

Rule 205 (g) prohibits the discharge of organic materials into the atmosphere from petrochemical processes in excess of 100 ppm. equivalent methane.

Texaco alleges and the Agency concurs that the emissions from the activating treatment unit are as follows:

Tank	Service	Hydrocarbon Emissions (Methane Equivalent) Max. PPM	Max. lb/hr
3741) 11514)	Treating	33,390	27.1
2140) 2164)	Doctor Reactivation	2,330	5.8
11516)		3,270	5.8
2114) 2120) 2123) 11490)	Bleaching	90,000	18

Texaco proposes to install equipment to bring this operation into compliance. This will include the adding of mixers on agitator tanks 3741 and 11514 to eliminate the need for air mixing. Vapors will be collected from reactivator tanks, bleacher tanks, and doctor reactivator using blowers and directed to a thermal incinerator or oxidizer (R. 36-42, Pet. P. 5).

The Agency believes that this equipment unit will bring this unit into compliance with Rule 205 (g) (Agency recommendation P. 3).

Texaco has a proposed time schedule for the completion of this project as follows:

A)	2-1-74	Application to Environmental Protection Agency for permit
B)	4-1-74	Construction contract awarded
C)	5-1-74	Construction begins
D)	10-1-74	Construction completed
E)	11-1-74	Commence operation

(Pet. Exhibit 1, Pet. P. 5)

Texaco estimates this project will cost $281,000.

The Agency's major objection to this variance is the time schedule. First, the Agency feels that by considering the control of this unit as one project, Texaco is asking for an unwarranted delay in reducing emissions 25-30% (Agency closing argument P. 1-2). Secondly, the Agency brought out in testimony that the project could have been completed on time, had not there been so much of a gap in Texaco's scheduling (Agency closing argument, P. 4).

Section 35 of the Environmental Protection Act allows the Board to grant a variance from its regulations if enforcement of the regulation would pose an unreasonable or arbitrary hardship (Chapter 111 1/2 Ill. Revised Statutes Section 1035 [A]). Mere economic hardship in the face of alternatives doesn't justify variance relief (Swords v. Environmental Protection Agency PCB 70-6). Hardship to persons other than the Petitioner, such as employees or customers, may be the basis for granting a variance (Merle K. Buerkett v. Environmental Protection Agency PCB 71-303).

We feel that Petitioner has shown a hardship that will sustain the granting of a variance. Testimony shows that 13-15% of the refinery's capacity is jet fuel that is processed through the unit in question. Should a variance not be granted, the alleged loss of this aviation fuel (16,000 bbls. per day, Pet. P. 4) would cause a severe strain on the already tight fuel situation which the airlines are already experiencing. The alleged loss of fuel would result in a further reduction of flights which affects the employment of persons far beyond those employed by Texaco.

Unfortunately the record gives no indication as to effect Petitioner's emissions have on the environment. Texaco's variance petition states that: "The granting of this variance will have no adverse effects on the public as these hydrocarbon emissions do not contribute significantly to photochemical smog formation in this area." The Board has no way of attesting to the validity of this statement. The Agency in its recommendation makes no mention of adverse environmental effects. Because of the above, and because this source of emissions will be brought into compliance within one year, the Board reluctantly accepts Petitioner's environmental impact statements. It is further worth noting that during Agency interviewing of citizens in the area, no citizens objected to the grant of the variance. Although some citizens indicated they were bothered by odors from Petitioner's facilities, there is no way of determining whether the odors are attributable to the subject unit operations.

The Board is as troubled as the Agency with the speed with which this project has been carried out. Oliver Goodlander, the plant's supervisor for air-water conservation, testified that he monitors poll-

ution control regulations and advises management on compliance (R. 80). When the present regulations for air pollution came out in April of 1972, a survey of the plant was made to determine compliance or lack of compliance (R. 85). The testimony of Mr. Warren Yaap, associate plant manager for the past 6 1/2 years, explained the project effort as portrayed in Petitioner's Exhibit #1. Progress in bringing the plant into compliance went along smoothly until January of this year. At that time staff at the Lockport refinery had agreed to a proposed contract with the local office of Brown and Root, a Houston-based engineering firm, to develop the engineering needed to bring the plant into compliance. The home office of Brown and Root objected to the contract, and negotiations between Lockport, Houston, and Texaco headquarters in Houston took 4 1/2 months, during which time nothing was done on this project (R. 68). The Board feels that this delay was unwarranted and should have been mitigated by Texaco, in either pressing negotiations at a faster pace or seeking a new engineering firm. Finally this problem was settled, and the engineering has since proceeded and was scheduled for completion on November 19, 1973 (R. 68). The rest of the schedule as portrayed in Pet. Exhibit #1 is fairly straightforward and reasonable.

The Board does not totally agree with the Agency's position that Texaco should be forced to do their compliance in a piecemeal way. The economies of doing engineering on a large project and the ability to get a large overview of the problem and solution are reasonable in an operation the size of Texaco in Lockport. The Board will not condone a corporation lumping together all environmental projects under one program just to forestall compliance, but the Board will allow such consolidation of workload when it applies to one process unit as is involved here.

Texaco has shown to the Board a good faith effort to bring this unit into compliance. Were it not for the delay with Brown and Root, we would have had no doubt about allowing Texaco the full time as requested. We are resolving this doubt in Texaco's favor. To determine that Texaco deserved a variance, which we find it does, as there is unrebutted testimony that compliance cannot be achieved by December 31, 1973 (R. 42, 71, 88), but to give it for a period shorter than the evidence shows it can be done would serve no logical purpose. This being the case, the Board will grant the variance until November 1, 1974, with the intent that any request for a new variance will be brought under the strictest scrutiny. It is implicit in the Board's order that Petitioner will expedite installation of equipment. Should the agitators arrive significantly before the incinerator, every attempt should be made to install them so as to abate at least part of the emissions before the expiration of this variance.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1) Texaco, Inc., is granted a variance from Rule 205 (g) until November 1, 1974, for the agitator treating unit at its refinery adjacent to Lockport, Illinois. Said variance is to allow installation of air pollution control equipment to comply with 205 (g).

2) Within thirty-five (35) days from the entry of this Order, and continuing quarterly, Texaco shall submit, in writing, progress reports indicating progress made toward completing its proposed control program to the Agency and this Board.

3) Texaco shall, within 35 days from the date of this Order, post a performance bond in a form satisfactory to the Agency in the amount of $100,000, guaranteeing installation of the above-ordered air pollution control equipment.

IT IS SO ORDERED.

Mr. Dumelle dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 20th day of December, 1973, by a vote of 4 to 1.