ILLINOIS POLLUTION CONTROL BOARD
December 20, 1973

CONTINENTAL CAN COMPANY CREST CONTAINER CORP. PETITIONER	)	
v.	)	PCB 73-438
ENVIRONMENTAL PROTECTION AGENCY RESPONDENT	)	

MR. PAUL PLUNKETT, ATTORNEY, in behalf of CONTINENTAL CAN-CREST CONTAINER CORP.
MR. FRED HOPPER, ASSISTANT ATTORNEY GENERAL, in behalf of the ENVIRONMENTAL PROTECTION AGENCY

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

This action involves a request for variance filed by Crest Container Corporation (Petitioner) seeking relief from Rule 204 (b) of Chapter 2, Part II, of the Regulations of the Pollution Control Board. More specifically, relief is sought to utilize a pair of new boilers by burning high sulphur (2.5-3.0%) #6 fuel oil. The Agency has recommended a grant pending certain findings and conditions.

Crest Container Corporation is a division of Continental Can Company. Crest owns and wishes to very shortly begin operations of a new facility located in Shelbyville, Illinois. The facilities will produce expandable polystyrene containers. Expandable polystyrene will be transferred from a bead storage area to Petitioner's molding machines. At this point steam is applied to the molding machines to cause expansion and fusion of the descrete beads. The mold is then cooled and the finished container is ejected. The finished item then proceeds to the printing department (R. 68). The printing process utilizes an ultra-violet cured ink. This is a high solids ink which has the advantage of not setting up on standing. Because of this property pollution due to ink wastes will not exist (R. 84).

Petitioner has spent approximately $1.75 million on its facilities at Shelbyville. Plans for expansion call for considerably more investment (R. 63). Initial plans call for a sales volume in the neighborhood of $5,000,000 with additional expansion planned. Initial plans call for an annual payroll of $800,000 and a staff of 100

people (R. 100). This point is of great importance in this action as will be covered in detail when this opinion deals with the potential hardship.

Steam generation for the abovementioned process will be from two Cleaver Brooks 500 H.P. boilers. Generation will be at a rate of 21 MM BTU/HR/boiler for each line (R. 145, 147). It is expected that initially steam demands will run at about 100% of one boiler. Testimony was further elicited that an additional boiler will be installed by June of 1974, which will be used to heat a proposed building expansion. Due to the fact that this boiler will be used for space heating, it will not be run until about October of 1974. In addition, a fourth boiler is being considered in the future. The subject of this variance petition centers around the fuel to be used in said boilers. Rule 204 (b) applies to new sulphur dioxide emission sources with actual heat inputs of smaller than or equal to 250 MM BTU/hr. The regulation limits emissions to 1.8 pounds of sulphur dioxide per million BTU of actual heat input.

Petitioner alleges that it is impossible to secure a supply of #2 or #6 low sulphur fuel oil for its boilers and that it must, in order to operate, use a high sulphur #6 oil. Mr. Lester Bracken (Plant Manager at Shelbyville) testified as to Petitioner's attempts to secure fuel oil (R. 96, 99). Petitioner alleges that they were completely turned down on attempts to get #2 fuel oil (See Pet. Exhibit 5). A commitment for 100,000 gallons of low sulphur #6 fuel oil was made on 7/27/73; however, this commitment fell through because of unavailability of oil. Attempts to increase gas supplies also were unsuccessful (Pet. Ex. 5). Mr. Devereaux of Continental Can Corp. testified that one of the methods investigated by Petitioner was to try and divert fuel oil from other plants in the corporate group; however, no excess reserve was available even by truck load from Chicago (R. 77). Petitioner alleges that the only fuel commitment it has been able to secure is for #6 fuel oil at about a 2 1/2% sulphur content.

Emissions from the subject boilers will be (by Agency calculations) 3.14 lbs/MM BTU. This will result in a violation of Rule 204 (b). As mentioned, Petitioner's facility is located in Shelbyville, Illinois. This area is not a major metropolitan area, and the effect on the environment of Petitioner's emissions will not be great. Shelbyville is classified as a Priority II Region as defined by Regulations of the Federal Environmental Protection Agency. A Priority II Region is one in which violations of the Federal Primary Sulphur Dioxide Standard are not expected.

Two witnesses testified as to the effects on ground level sulphur dioxide concentrations from Petitioner's boilers. Mr. D. Jones (Illinois Institute of Technology engineer) testified that in his opinion under normal conditions the ground level sulphur dioxide

should be in the order of 0.01 ppm. (R. 137) It was witness's contention that the Agency calculation of a maximum 0.049 ppm. concentration was based on very unfavorable climatic conditions. Mr. L. Weitzman (Ill. Environmental Protection Agency) testified (R. 178) to the results of a modeling calculation he ran. He calculated that at 2,200 feet downwind from a 50' stack the ground level concentration would be 0.06 ppm. Under unusual conditions the ground level sulphur dioxide concentration could reach 0.08 ppm. The Board takes notice that Mr. Weitzman related that the model used was not strictly accurate in that several of his parameters did not apply to the exact conditions at the Shelbyville location.

The primary air quality standard is 0.14 ppm. maximum 24 hr. concentration. The above clearly shows that under no conditions will Petitioner's facility approach this limit. It is also important to note that the Agency upon checking its emission inventory indicates no sulphur dioxide emission sources in the area. The nearest air monitoring station located 25 miles away shows a 0.01 ppm sulphur dioxide concentration. From the above it is clear that Petitioner's facility will not cause serious environmental harm to the area. However, the Board hastens to add that Rule 204 (b) was enacted as an attempt to maintain areas like Shelbyville at a high level of air quality. It is for this reason that as part of its order the Board will require that Petitioner diligently pursue every method to obtain compliance.

It has long been the policy of the Board to balance environmental harm against hardship (Roesch Enamel & Manufacturing Co. vs. Environmental Protection Agency PCB 71-62). This action involves a rather unique hardship case in that the entire town would suffer if Petitioner were not allowed to operate in the Shelbyville area. Mr. G. Burrell and Mr. Robert Johnston, both active in community affairs, testified at length as to the need for industry in the community (R. 12-31) (R. 31-43). The testimony of these two witnesses centered around the attempts made by the community to entice industry into the area. The community was active in securing internal funds for construction of a building which would house an industrial plant. It is this building which Petitioner occupies. The city has suffered many setbacks because of industry's leaving the community. In 1958 a garment factory left the area at a loss of 70 jobs. In 1967 another facility leaving cost 50 more jobs, and in 1970 the White Farm Machinery Corp. closed, putting 650 people out of work. The abovementioned building was occupied by a corporation which has since left the area at a net loss of 80 jobs. Mr. R. Aiken of the State of Illinois Department of Business and Economic Development testified that the unemployment rate in Shelbyville is at 8-10%, and that jobs are sorely needed (R. 90). There is no question that the people of Shelbyville have worked long and hard to secure industry. The hardship that would be incurred if Petitioner were not allowed to locate in the area is very real. It is the Board's opinion that the hardships far outweigh the environmental impact of Petitioner's emissions.

The Agency in its recommendation points out that Petitioner has not presented an adequate compliance plan. During hearing, however, Petitioner did shed some light on the subject. The Board feels that Petitioner is indeed attempting to investigate the problem and study the technical and economic feasibility of abatement in ways other than switching fuel. It is understood that the most convenient method of compliance would be to secure a supply of low sulphur fuel. It will be part of the Board's order that an attempt of this nature be pursued. The Board is very well aware of the present difficulty of obtaining low sulphur fuel and fully realizes that Petitioner is not alone in his plight. It is therefore necessary that Petitioner do its share in seeking alternate compliance methods. Petitioner has made an initial attempt in this area. Mr. David Jones testified that he is an employee of Illinois Institute of Technology in Chicago. He further testified that the Institute was retained by Petitioner to investigate the effects of Petitioner's emissions on the environment and to recommend and initiate a program to abate sulphur dioxide emissions (R. 132). Mr. Jones further testified that Petitioner should start making an economic study as soon as possible.

The Board hastens to point out that there are substantial differences between Petitioner and a major fuel consumer (such as utilities). One cannot expect a facility of Petitioner's type to be as far along on research of sulphur dioxide abatement technology as a major consumer of fuel. The fuel shortage, though predictable, has come upon many moderate fuel consumers quite suddenly, and planning to meet their fuel needs while helping to protect the environment is a relatively new field to them. As mentioned, all facilities must do their share in attempting to abate their problems. In the instant case the Board feels a viable start has been made.

Messrs. Bowles and Dove, representing the people of Shelbyville, were allowed to interrogate witnesses at the hearing by the Hearing Officer. The People of Shelbyville did not petition to intervene in this matter, as allowed by Sec. 310 of the Procedural Rules. Since they did not intervene, the Hearing Officer erred by allowing them the right of parties to examine witnesses. The Board has not found this to be a fatal defect to granting Petitioner a variance. There was sufficient testimony elicited by Petitioner for the Board to find a grant of variance. The testimony elicited by Messrs. Bowles and Dove is hereby stricken from the record.

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. Petitioner is hereby granted a variance from Rule 204 (b) until one year from the date of this Order, subject to the following conditions:

A) Petitioner shall continue to diligently seek low sulphur fuel oil capable of complying with Rule 204 (b).

B) Petitioner shall apply for all necessary construction and operating permits for the facility.

C) Petitioner shall diligently pursue its investigations and if feasible implementation of a sulphur dioxide abatement program.

D) Petitioner shall file every three months a written report detailing its progress in regards to conditions (A) and (C) above. Said report shall be sent to:

Environmental Protection Agency
Division of Air Pollution Control
Central Region Coordinator

IT IS SO ORDERED.

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 5 to 0.

Christan L. Moffett