

ILLINOIS POLLUTION CONTROL BOARD
May 3, 1972

KANKAKEE FOUNDRY COMPANY)
)
 v.) PCB 71-366
)
 ENVIRONMENTAL PROTECTION AGENCY)

Edwin W. Sale and William E. Eaken, Attorneys for Kankakee Foundry Company
Prescott E. Bloom, Attorney for the Environmental Protection Agency

Opinion and Order of the Board (by Mr. Aldrich):

A petition for variance was filed by Kankakee Foundry Company on November 23, 1971. Petitioner requests a variance from provisions of the Environmental Protection Act ("Act") and rules and regulations effective pursuant thereto.

Petitioner operates a grey iron foundry in the City of Kankakee, Illinois. The Company's present facilities include a No. 9 Whiting cupola which is now forty-five years old. Existing emission controls consist of a wet cap on the cupola together with after-burners. Petitioner estimates its emission rate to be 72 pounds of particulate matter per hour, which matter consists of iron oxides, sulphur dioxide, silicone dust, and carbon monoxide (Pet. Ex. 6). Following an inspection of Petitioner's facilities, personnel of the Environmental Protection Agency estimated the emission rate to be 424 pounds per hour thereby exceeding the allowable rate by a factor of approximately nine (EPA Ex. 1). The reason for the rather large discrepancy between the estimate of the Company and that of the Agency is unknown but the estimates of both parties indicate that the Company's present emission rate exceeds the allowable limit.

At the time the Company filed its variance petition it was in the process of investigating two alternative methods to reduce emissions. The Company was then undecided between building a new cupola equipped with modern emission control devices or installing a coreless induction furnace. Petitioner subsequently decided to pursue the latter course. On March 1, 1972, the Company entered into a lease with Brown Boveri Corporation providing for the installation and lease of two package induction furnaces (line frequency coreless induction melting furnace) and a gas-fired charge preheater (Pet. Ex. 2). By letter dated February 11, 1972, Brown Boveri Corporation indicated its intention to schedule the construction and installation of said equipment for start up on or about July 17, 1972 (Pet. Ex. 1). Petitioner applied for an installation permit for the equipment on March 6, 1972 (Pet. Ex. 4). The Company estimates that its emission rate following installation of the new equipment will be 3.0 pounds per hour.

A hearing in the case was held March 10, 1972. At that time E. C. Schneider, President of Kankakee Foundry Company, agreed to shut down the present operation on July 1, 1972, preparatory to installing the new equipment (Pet. Ex. 7). He further committed Petitioner to applying for an operating permit within two weeks after installation. Petitioner has submitted a performance bond in the amount of \$50,000.00 conditioned upon compliance with the terms of the stipulation with the Agency. Petitioner is committed to using the new equipment exclusively by no later than September 1, 1972.

In making its case for a variance, Petitioner contends that even a temporary shutdown of its operations prior to July 1, 1972, at which time orders are normally reduced, would impose an unreasonable hardship on the Company and its employees. Because of its present financial obligations the Company might be forced into receivership should its request for additional time be denied. Employment for approximately 140 persons, many of whom are allegedly disadvantaged, would be terminated.

The Agency stipulates that the area surrounding Kankakee is not among those suffering serious air pollution and that the public interest does not require the closing down of the operation pending the delivery and installation of the new furnaces (Pet. Ex. 7). The Agency has not received any complaints concerning the operation of the foundry.

We are convinced from the facts in this case that a variance is merited. The Company is committed to closing down its present operations by July 1, 1972 and risks forfeiture of the performance bond if it fails to do so. The continued emission of particulate matter in excess of the standards until that time does not warrant immediate closing of the plant and attendant loss of employment for 140 persons. We shall therefore grant Petitioner a variance from applicable air pollution regulations until September 1, 1972. In granting the variance, we impose only the condition that Petitioner not increase its process weight rate above the present level.

As noted previously, Petitioner is already committed to applying for an operating permit within two weeks following installation of the new equipment. Evaluation by Agency personnel at that time is intended to ensure that the Company's emissions will be in compliance with the standards.

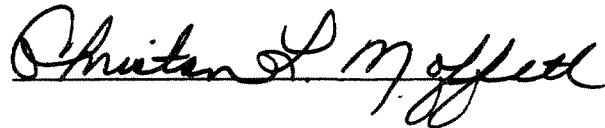
Finally, we note that there is presently pending before this Board an enforcement action in which Kankakee Foundry Company is named Respondent (EPA v. Kankakee Foundry Company, PCB 72-126). That action involves charges of alleged violations of air pollution regulations arising from use of the Company's existing cupola. Our action today in granting the Company a variance is done without prejudice as to any penalties which this Board may deem appropriate as a result of evidence presented in the enforcement cause.

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

ORDER

1. Kankakee Foundry Company is hereby granted a variance from air pollution provisions of the Environmental Protection Act and rules and regulations effective pursuant thereto until September 1, 1972, for its grey iron foundry in Kankakee, Illinois. This action is without prejudice as to penalties resulting from evidence elicited in the pending enforcement case.
2. During the period of this variance Kankakee Foundry Company shall not increase the process weight rate of its existing cupola above the average for the preceding thirty days.
3. Kankakee Foundry Company shall not use the presently existing cupola after July 1, 1972.
4. Kankakee Foundry Company shall within 35 days of this order post a performance bond of \$50,000 in compliance with the terms of the stipulation.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this 3rd day of May, 1972 by a vote of 5-0.

A handwritten signature in cursive script that reads "Christan L. Moffett". The signature is written in dark ink and is positioned below the typed text of the certification.

