

ILLINOIS POLLUTION CONTROL BOARD
January 6, 1972

MOLEX, INC.)
)
)
 v.) # 71-200
)
)
 ENVIRONMENTAL PROTECTION AGENCY)

Opinion of the Board (by Mr. Currie):

Molex's petition, filed in June 1971, asked a year's variance from the particulate air contaminant emission regulations to permit operation during installation of scrubbers to control organic emissions from its plastics plant in Brookfield. We grant the request subject to several conditions for reasons indicated below.

Molex received letter-of-intent forms from the old Air Pollution Control Board in 1967, specifically notifying the company of its obligation to submit process emission data and to file a program for bringing its operations into compliance. By its own admission the company did nothing about it until 1970, when it began looking for a solution. The present petition, filed four years after the letter of intent was required, was the first attempt to establish a control program.

The plan envisions installation of two scrubbers that will allegedly reduce emissions by 95%. The Agency has issued permits for the equipment, finding it adequate to meet the emission standards. Construction cannot begin until Cook County also gives a permit, and the County had at the time of the hearing refused to do so because it wanted assurance that excessive odors would not continue after the scrubbers were in operation.

The company at the hearing November 22 said that nine months would be required to complete the installation. As the Agency demonstrated through company witnesses, however, this schedule is based upon installation of the scrubbers one at a time. By putting both in at once Molex acknowledged that it could cut eight weeks from the timetable, and we think it should do so. The added costs are those of hiring three men for several weekends of work, or in the alternative, of employing an independent contractor to do the installing. These costs are relatively small in comparison with the serious nature of the pollution the company is asking permission

to continue during the installation. The record is full of citizen testimony detailing how unpleasant it is to live near this factory, and we think Molex should pay the extra money in order to terminate this untenable situation as quickly as is practicable. We therefore shorten the company's time from its requested nine months to seven from the date of the hearing, requiring the controls to be in operation by May 22, 1972.

The problem with the County must not be permitted further to hold up correction of this acute particulate problem. It is Molex's obligation to control odors as well as particulates, and it should commit itself to whatever additional controls may be required to deal with the odor problem in order that it may get on with its present program. We will not permit the company's odor problems to stand as an excuse for failure to take prompt action to abate the particulate problem. Molex must meet the particulate standards by May 22, 1972, or face appropriate enforcement sanctions.

We have considered the possibility of denying the variance altogether, since these emissions of coal-tar derivatives impose a severe hardship on the neighbors and since any hardship suffered by the company, even if it were required to shut down until the controls are in, would be self-inflicted due to the four-year delay in submitting and commencing a control program. In light of the hardship that a shutdown would impose upon innocent employees, however, we do not believe this step necessary at this time, since the company is now committed to a reasonably brief correction schedule. On the other hand, we cannot give Molex a free pass for its inexcusable and lengthy delay. Had the company done what it was required to do, this pollution would have ceased two or three years ago. Instead it has saved the interest on its investment for the period of inaction, and it must not be permitted to profit from its own wrong, unless we are to encourage others similarly to ignore their obligations. Not only was the failure to file the required intent letter and compliance program a double violation of the old Air Pollution Control Act, which the company argues we have no jurisdiction to enforce. We disagree with that contention, but the company has been emitting contaminants in excess of those permitted by the regulations ever since the new statute came into effect in July, 1970. This unexcused violation clearly is within our authority to penalize.

We could achieve the appropriate goal of approving the present program while imposing penalties for past violations by denying the variance request and entertaining a subsequent complaint. In similar cases in the past, however, we have

reached the same result without the unnecessary time and cost of a second hearing by granting a variance in the sense of protection from future prosecution on the condition of payment of a money penalty for past delays. See, e.g., Marquette Cement Co. v. EPA, # 70-23 (Jan. 6, 1971); Agrico Chemicals Co., # 71-211 (December 21, 1971). We think the same course is appropriate here. A \$10,000 penalty condition is therefore imposed.

In addition, the statute requires us in cases of this kind to impose the condition of a bond or other security in an amount sufficient to deter any failure to adhere to the program. The cost of the program is estimated at \$45,000, and we shall require security in that amount, in accord with the guidelines set forth in earlier Board decisions.

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

ORDER

Molex, Inc. is hereby granted a variance to emit particulate air contaminants in excess of those permitted by the Rules and Regulations Governing the Control of Air Pollution, until May 22, 1972, provided the following conditions are met:

1. Molex shall diligently pursue the program of scrubber installation as described in the record; and
2. Molex shall file monthly progress reports with the Agency, commencing on February 1, 1972; and
3. Molex shall not increase its discharge of contaminants during the period of this variance; and
4. Within 35 days after receipt of this order, Molex shall pay to the Agency the sum of \$10,000 as a penalty for past delays in controlling particulate emissions; and
5. Within 35 days after receipt of this order, Molex shall post with the Agency a bond of other adequate security in the amount of \$45,000 to assure adherence to the control program.

Breach of any of the conditions of this order shall be grounds for revocation of this variance.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the above Opinion was adopted by the Board this 6th day of January, 1972, by a vote of 4 to 0.

Christan L. Moffett
00 175

