

ILLINOIS POLLUTION CONTROL BOARD
October 4, 1978

LISSNER CORPORATION,)
Petitioner,)
v.) PCB 78-207
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

Lissner Corporation filed a Petition for Variance before the Board on July 31, 1978. The Environmental Protection Agency (Agency) filed its Recommendation on September 5, 1978. No hearing has been held in this matter.

This variance petition concerns reverberatory furnaces in Lissner's secondary aluminum smelter located at 1000 North Branch Avenue in Chicago. Specifically, Lissner seeks a variance from the Board's Order in PCB 75-19 (entered March 16, 1978) and the particulate emission standards of Rule 203(a) of the Air Regulations (Chapter 2) and the opacity standards of Rule 202(b) until a baghouse control system is completed at the smelter. The Board's Order in PCB 75-19 permitted Lissner to continue operation of its reverberatory furnaces until August 1, 1978, at which time operations were to cease if the baghouse system were not operational. The Order included a provision that, if between June 28 and August 1, 1978, Lissner received for the first time information indicating that its baghouse might not be operational by August 1, the cease-operation date would be extended 35 days from the date of receipt of such information. Lissner now seeks a variance until October 1, 1978, so that it can complete the baghouse facility without ceasing operation of its reverberatory furnaces and again requests that the cease-operation date be extended 35 days if between September 1 and September 29 it receives for the first time information indicating that its baghouse system might not be operational by October 1.

Lissner's Petition and the Agency's Recommendation both indicate that Lissner has been diligent in attempting to complete the baghouse system by August 1, 1978. Construction of the system was begun even before a contract was entered into between Lissner and its contractor. However, unforeseeable delays detailed in "Exhibit B" attached to the Variance Petition prevented installation and operation of the system by that date. These delays were caused by discovery of an underground obstruction, underestimation of time by the structural steel supplier, unavailability of the special Corten steel for the quench vessel, a six week strike at the fan motor supplier's plant, late delivery by the baghouse supplier, a fire, and other unforeseeable circumstances.

Lissner points out that it has voluntarily reduced its total emission of particulates to not more than 15,400 pounds per month, 30% below the amount permitted by the Board under its Order in PCB 75-19. Nevertheless, the Agency recommends that Lissner not be granted any extension of time beyond October 1, 1978. The Agency indicates that the baghouse system is near completion and that the October 1, 1978 date is reasonable.

The Board finds that Lissner is unable to comply at the present time and that denying the variance and thus requiring shut down of the reverberatory furnaces until the baghouse is complete would result in an arbitrary and unreasonable hardship. The Board agrees with the Agency that a variance beyond October 1, 1978, is not necessary. We will, therefore, grant Lissner a variance until October 1, 1978, to complete installation of its baghouse system, at which time operation of its reverberatory furnaces shall cease if the baghouse system is not completed. We have included provisions in our Order which fulfill the requirements of §113(d) of the Federal Clean Air Act.

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

ORDER

It is the Order of the Pollution Control Board that Lissner Corp. be granted a variance from the Board's Order in PCB 75-19 (entered on March 16, 1978) and Rules 203(a) and 202(b) of the Air Regulations until October 1, 1978, for its reverberatory furnaces, subject to the following conditions:

1. If Lissner's baghouse control system is not completed by October 1, 1978, Lissner shall cease operation of its reverberatory furnaces until such system is completed;
2. Lissner shall continue to comply with all other conditions set forth in the Board's Order in PCB 75-19;
3. Lissner Corp. is hereby notified that it shall be required to pay a noncompliance penalty effective July 1, 1979, as provided by Section 120 of the Clean Air Act, in the event Lissner fails to achieve compliance by July 1, 1979; and
4. Within 45 days of the adoption of this Order the Lissner Corp. shall execute and forward to the Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706 a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-207, hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED _____

TITLE _____

DATE _____

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the _____ day of _____, 1978 by a vote of _____.

Christian L. Moffett, Clerk
Illinois Pollution Control Board