

ILLINOIS POLLUTION CONTROL BOARD

January 20, 1977

STEPAN CHEMICAL COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 76-268  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

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

This matter is before the Board on a Petition for Variance filed by the Stepan Chemical Company (Stepan) on October 27, 1976, seeking relief from the discharge limitation for biological oxygen demand (BOD) and suspended solids (SS) in Rule 404(b) of Chapter 3: Water Pollution, of this Board's Rules and Regulations. A Recommendation was filed by the Environmental Protection Agency (Agency) on December 15, 1976. No hearing was held in this matter.

The relief sought here by Stepan is an extension of previously granted Variances concerning its Millsdale chemical plant located on the Des Plaines River in Will County, at which phthalic anhydride, liquid detergent intermediates, dry cleaning emulsifiers, polyurethane foam systems and high purity specialities for the cosmetic industry are produced. Stepan's previous Variances were granted as the conclusion of a long history of litigation before this Board concerning the Millsdale Plant. EPA v. Stepan and Stepan v. EPA (consolidated), PCB 72-489, 73-184, 11 PCB 7 (Jan. 24, 1974); Citizens for a Better Environment v. Stepan and Stepan v. EPA (consolidated), PCB 74-201, 74-270, 74-317, 15 PCB 445, 15 PCB 467 (Mr. Dumelle concurring), 15 PCB 469 (Dr. Odell dissenting as to the penalty) (Feb. 14, 1975); Id., (Supplemental Opinion and Order on Motion for Rehearing and Reconsideration), 16 PCB 539 (May 8, 1975); Id., (Supplemental Opinion and Order on Remand from Appellate Court of Illinois, 3d Dist., in Stepan Chemical Co. v. PCB, No. 75-187, (Dist. Ct. App. 3d Dist. Ill., June 16, 1976)) (August 5, 1976); Stepan v. EPA, PCB 75-503 (August 5, 1976).

The Board's various Opinions and Orders, cited above, fully detail the operations of Stepan's Millsdale Plant, and the history of Stepan's difficulties with its water discharges, originally to Cedar Creek, and now to the Des Plaines River. We shall only repeat here the fact that Stepan's most recent Variance, PCB 75-503, was granted to allow the construction of major additions to its wastewater treatment facility, including (principally) construction of a 3.5 million gallon activated sludge tank for equalization and additional BOD removal, and the installation of the pressure filtration system for treating secondary clarifier overflow, at a cost exceeding \$1,300,000.

Stepan now seeks an extension of the Variance granted in PCB 75-503, alleging that the extension is necessary by virtue of a long, and violent, strike at the Millsdale Plant which precluded completion of the wastewater treatment facility additions. Stepan alleges, and the Agency agrees in its Recommendation, that this strike was unforeseeable. The parties agree that despite concerted legal efforts by Stepan (including injunctive orders from both state and federal courts), it was not possible for Stepan's contractors to cross the picket lines. As a result, Stepan's Petition asks that the Variance granted in PCB 75-503 be extended through January 18, 1977, or such further time as may be necessary for the establishment of an operational activated sludge system.

The Agency's Recommendation notes that the strike at the Millsdale Plant was formally resolved on November 1, 1976 and, although construction should be completed by the end of December, 1976 (Rec., ¶8), an activated sludge system cannot be operational at the Millsdale Plant until Spring, 1977. The Agency therefore recommends that Stepan be granted a Variance until April 1, 1977.

We agree with the Recommendation. All of the factors which led to our grant of a Variance in PCB 75-503 remain true, with this Variance extension required only as a result of factors beyond Stepan's control. We have previously held that a delay in compliance caused by a strike beyond Petitioner's control justifies the grant of a Variance. City of St. Charles v. EPA, PCB 74-176, 13 PCB 269 (1974). Balancing the hardship to Stepan if this Variance were denied, against the likelihood of environmental damage, in light of Stepan's good faith and imminent compliance, we find that a Variance is warranted.

This Variance shall be conditioned upon compliance with all conditions in the Board's Order in PCB 74-201, 74-270 and 74-317 (consolidated), supra, as was the Variance grant in PCB 75-503. We shall also require that Stepan continue its good faith efforts to minimize its effluent contaminant concentration, and submit a standard Certification of Acceptance.

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 Petitioner Stepan Chemical Company be granted a Variance from Rule 404(b) of Chapter 3: Water Pollution, for discharges from its Millsdale Plant to the Des Plaines River, from July 31, 1976 until April 1, 1977, subject to the following conditions:

1. Compliance with all conditions in the Board's Order in PCB 74-201, 74-270 and 74-317 (consolidated), as subsequently modified by the Board on May 8, 1975 and August 5, 1976;

2. Petitioner shall at all times operate its wastewater treatment system so as to minimize effluent contaminant concentrations as much as practical under construction conditions; and,

3. Petitioner shall, within thirty (30) days of the date of this Order, execute and forward to the Environmental Protection Agency, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance in the following form:

I, (We), \_\_\_\_\_ having read the Order of the Illinois Pollution Control Board in case No. PCB 76-268, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20<sup>th</sup> day of January, 1977, by a vote of 4-0.

Christan L. Moffett  
Christan L. Moffett Clerk  
Illinois Pollution Control Board