

ILLINOIS POLLUTION CONTROL BOARD
March 19, 1981

GETTY SYNTHETIC FUELS, INC.,)
)
 Petitioner,)
)
 v.) PCB 80-171
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
 Respondent.)

MR. LOUIS M. RUNDIO, JR., McDERMOTT, WILL AND EMERY, APPEARED ON BEHALF OF PETITIONER.

MR. PETER E. ORLINSKY APPEARED ON BEHALF OF RESPONDENT.

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

On September 24, 1980 Getty Synthetic Fuels, Inc. (Getty) filed a permit appeal before the Board alleging that the Illinois Environmental Protection Agency (Agency) had erred in including certain provisions in Getty's operating permit. Hearing was held in this matter on December 12, 1980; there was no testimony by the public at the hearing and the Board has received no written public comment. At the hearing the Agency moved to dismiss the appeal. The motion to dismiss is hereby denied.

Although there is considerable procedural history herein, the major issue involved is the characterization of Getty's methane recovery facility located at the site of a landfill in Cook County, Illinois. This facility includes a landfill gas gathering system and a processing plant. The purpose of the facility is to gather the gas that naturally forms when solid waste in a landfill decomposes and to extract the relatively high percentage of methane contained therein. The methane thus produced is a high-Btu pipeline quality gas suitable for industrial and residential use. During the recovery of the methane from the landfill gas certain other constituents are separated out, including certain hydrocarbons, heavier in molecular weight than is methane, termed "heavy hydrocarbons". Approximately 220 pounds of heavy hydrocarbons are separated from the gas each hour during the recovery process.

Approximately 90% of the 220 pounds per hour of heavy hydrocarbons produced are removed through a condensation process. The residual heavy hydrocarbons that remain after condensation, emitted at a rate of about 20 pounds per hour, are then subjected to a process known as "gas stripping" which reduces the residual heavy hydrocarbon emissions to a rate of 7 pounds per hour.

In issuing the permit to Getty, the Agency characterized the facility as a petrochemical manufacturing process, based upon certain constituents of the heavy hydrocarbons separated from the gas stream during the process (Tr.70,77). The Agency therefore considers that Getty is subject to Rule 205(g)(1)(C) of Chapter 2 and, in addition, Rule 205(f) since the process is using organic materials. Rule 205(g)(1)(C) addresses emissions from petrochemical manufacturing processes and Rule 205(f) is designed to apply to sources not otherwise specifically addressed under the hydrocarbon rule. The limitations of both rules for the purposes of Getty's situation are identical: no more than 8 pounds of emission per hour or, in the alternative, an 85% reduction of all uncontrolled emissions. On the other hand, Getty argues that the methane recovery operation is not a petrochemical manufacturing process but more closely resembles an air pollution control facility controlling emissions from a separate source, namely the landfill. Getty therefore argues that the correct rule to apply is Rule 205(f), and that the correct source is the landfill.

The first issue is whether Getty's facility is a petrochemical manufacturing process and thus subject to Rule 205(g)(1). If it is not a petrochemical manufacturing process, a further issue is whether the emission subject to Rule 205(f) is that being discharged by the landfill, as Getty argues, or that being discharged from the recovery plant itself, as argued by the Agency.

The recovery facility is a new type of facility and does not clearly fit into any of the specific categories of the hydrocarbon rule. Most certainly, this was not the sort of operation or facility envisioned by the Board when it promulgated Rule 205(g)(1), which governs petrochemical manufacturing processes. The mere presence of a small amount of nonmethane hydrocarbons, even if they can be described as ultimate feed stocks derived from petroleum, does not alone determine the operation to be a petrochemical process. The Board finds that Getty's methane recovery operation is not a petrochemical process subject to Rule 205(g)(1).

Both parties contend, and the Board agrees, that Rule 205(f) contains the limitations with which Getty's facility must comply. The issue remaining is whether Getty's facility is an air pollution control device controlling emissions from a source (the landfill), or whether the facility itself is the source and the gas stripping operation the pollution control device. The decision will determine what emissions are to be the baseline for the determination of an 85% reduction, the 220 pounds per hour from the landfill or the 20 pounds per hour from the recovery operation. The Board is not persuaded by Getty's argument that the recovery operation is a pollution control device. If Getty's contention is true then it must be prepared to take responsibility for all emissions from the landfill. Getty does not own the landfill and there is no evidence that it exercises such degree of control over the landfill as to have a duty to accept responsibility for its environmental regulatory compliance. The avowed purpose of the facility is

not to stop the emission of pollutants into the air from the landfill, but rather to "... make a profit." (Tr.23). Getty's facility is "... of a type capable of emitting specified air contaminants to the atmosphere", the definition of an emission source under Rule 101. The Board finds that Getty's facility is an emission source subject to Rule 205(f) of Chapter 2.

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

ORDER

1. This matter is remanded to the Illinois Environmental Protection Agency for further action consistent with the Opinion herein.

2. The Illinois Environmental Protection Agency's motion at hearing for dismissal is denied.

Dr. Satchell concurred.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 19th day of March, 1981 by a vote of 5-0.

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