

ILLINOIS POLLUTION CONTROL BOARD
August 5, 1976

STEPAN CHEMICAL COMPANY,)
)
Petitioner,)
)
v.) PCB 75-503
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

The Petition for Variance in this matter was filed by Stepan Chemical Company (Stepan) on December 24, 1975, seeking a seven month extension from December 31, 1975 until July 31, 1976 of a Variance previously granted (PCB 74-317) from Rule 404(b) of Chapter 3: Water Pollution, of the Board's Rules and Regulations. PCB Regs., Ch. 3, Rule 404(b). The Agency's Recommendation was filed on July 14, 1976. No hearing was held in this matter.

Stepan operates a chemical plant located on the Des Plaines River in Will County, Illinois, at which it produces phthalic anhydride, liquid detergent intermediates, dry cleaning emulsifiers, polyurethane foam systems and high purity specialities for the cosmetic industry. That plant and its wastewater discharges are fully described in three previous Board Opinions: 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). A brief summary of the facts is necessary here.

An Enforcement action (PCB 72-489) filed by the Agency on December 13, 1972 charged Stepan with various water pollution violations with regard to its Millsdale Plant. In the Opinion and Order on that and a consolidated Variance case (PCB 73-184) filed May 2, 1973, the Board penalized Stepan \$12,500 and granted Variance from Rule 404(f) until July 15, 1974.

In the consolidated Enforcement, Variance and Permit Appeal cases, PCB 74-201, 74-270 and 74-317, the Board again found Stepan in violation and again granted Variances. As later modified by the Board's Supplemental Opinion and Order of May 8, 1975, our Order there allowed Stepan a Variance from the rules applicable to its discharge until December 31, 1975. In addition, our Order required that Stepan cease its discharge into Cedar Creek and discharge via pipeline into the Des Plaines River.

More recently, all parties to the latter case moved for a remand of the matter to the Board from the Appellate Court, Third District, and submitted a Stipulation and Proposal for Settlement to the Board asking certain modifications of our Orders (as amended) in PCB 74-201, 74-270 and 74-317. Those modifications are approved in a separate Opinion and Order adopted today.

In this case, Stepan asks that the Variance previously granted be extended by the Board to allow its discharges to the Des Plaines River to which its effluent has been piped since August 8, 1975. The basis of that request is that an additional seven months will be needed to place certain new wastewater treatment facilities into full operation as a result of necessary construction plan modifications and unanticipated equipment delivery delays.

Since our previous Variance Orders, Stepan has been forced to make plan modifications for the additions to the wastewater treatment plant. The primary change, resulting from predicted foaming problems, has been to convert a pre-aeration lagoon into an activated sludge basin, which will control foaming and allow additional BOD removal. Although Stepan decided in October, 1975 to convert this 3.5 million gallon activated sludge basin to a similarly sized tank, in an effort to speed construction, the conversion to activated sludge has nonetheless delayed compliance.

Additional problems have arisen as a result of delayed equipment deliveries. Stepan was unable to obtain an acceptable delivery date for certain necessary pumps and was forced to change vendors with regard to those items. As a result, delivery could not be scheduled until April, 1976.

It appears that these delays were unavoidable, and that Stepan has attempted to achieve compliance as quickly as possible under its Variances. Depriving Stepan of a shield from enforcement during a period when it could not have complied would impose an unreasonable hardship.

Balanced against the environmental harm likely to result, that hardship leads us to decide that the requested Variance is warranted. Stepan acted quickly following our previous Orders to divert its effluent from Cedar Creek to the Des Plaines River, which has more assimilative capacity. As noted in our Opinion today in PCB 74-201, 74-270 and 74-317, Stepan has also made other operating changes to increase the quality of that effluent. The Agency, recommending that the Variance be granted, claims that the 75 and 80 mg/l BOD and SS limits under the Variance are reasonable in light of the proposed settlement of the appeal in PCB 74-201, 74-270 and 74-317, the implementation of a costly compliance program and the short term remaining on the Variance request. Finally, and most importantly, this extension calls for complete compliance by July 31, 1976.

The conditions on the Variance shall be the same as those in PCB 74-201, 74-270 and 74-317, as amended May 8, 1975 and separately today. These include extensive testing and reporting to the Agency.

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 December 31, 1975 until July 31, 1976, 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, within twenty-one (21) 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 75-503, 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 5th day of August, 1976, by a vote of 4-0.

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