

ILLINOIS POLLUTION CONTROL BOARD

August 24, 1978

CATERPILLAR TRACTOR CO.,)
)
 Petitioner,)
)
 v.) PCB 78-67
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter is before the Board on a Petition for Extension of Variance filed by Caterpillar Tractor Co. (Caterpillar) on March 13, 1978. The Agency filed its Recommendation favoring the granting of the Petition on April 25, 1978. The right to a hearing has been waived, and the parties filed a Stipulation of Fact on July 25, 1978.

The subject of this Petition is Caterpillar's Joliet plant which employs approximately 6,000 people engaged in the manufacture of earthmoving machinery. This Petition is the latest in a series of petitions requesting a variance from Board Rules 404(b)(ii), 962(a) and 1002 of Chapter 3: Water Pollution Regulations. See, PCB 74-233, 75-54, 75-467, and 76-195. In PCB 76-195, the Board granted Caterpillar a variance from these rules until April 1, 1978, thereby relieving Caterpillar of compliance with the Board's BOD effluent standards until completion of an activated sludge plant. In that proceeding, Caterpillar projected that the plant would be completed on December 1, 1977 and would be operational by April 1, 1978. However, completion of the plant fell behind schedule due to several unforeseen problems: 1) a delay in the installation of a total organic carbon unit (TOC) due to a delay in ordering by a subcontractor; 2) a delay in the completion of the laboratory system because of a contract dispute; and, 3) a redesign of the instrumentation control system to help assure the adequate performance of the activated sludge system. Because of the delays, the plant was not completed until February 28, 1978 and could not become operational until July 1, 1978. Therefore Caterpillar is requesting an extension of the variance granted in PCB 76-195 from April 1, 1978 to July 1, 1978.

As noted in the Board's Opinion in PCB 76-195, Caterpillar's good faith and hardship in this matter have been well-established. Caterpillar has encountered numerous obstacles in the construction of this activated sludge plant, but it has continually operated its Joliet plant in compliance with the Board's orders. As noted in the Agency's Recommendation, Caterpillar has not exceeded the interim effluent limit of 130 mg/l BOD set by the Board in PCB 76-195. Caterpillar's discharge of BOD into the DesPlaines River has had little or no environmental impact on the degradation of the River due to the 1000:1 dilution ratio. Under the circumstances, a denial of this petition would not only impose an arbitrary and unreasonable hardship, but also would be inconsistent with the Board's prior actions in this matter. Mt. Carmel Public Utility v. EPA, PCB 73-300; 10 PCB 325, 328.

This opinion constitutes the finding of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that Caterpillar Tractor Company be granted a variance until July 1, 1978 from Rules 404(b)(ii), 962(a) and 1002 of Chapter 3: Water Pollution Regulations subject to the following conditions:

- (1) That Petitioner limit its discharge of BOD to 130 mg/l as a monthly average during the duration of this variance;
- (2) That Petitioner agree to start up its wastewater treatment facilities on or before July 1, 1978, even if the operational control equipment described in its Petition (including the total organic carbon unit, laboratory system, and instrumentation control system) is not yet on line;
- (3) Within 45 days of the adoption of this Order, the Caterpillar Tractor Company shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification 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 78-67 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED _____

TITLE _____

DATE _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of August, 1978 by a vote of 5-0.

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