

ILLINOIS POLLUTION CONTROL BOARD  
July 13, 1989

LIGMA CORPORATION, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 88-131  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

MR. CHARLES J. O'CONNOR, OF ARVEY, HODES, COSTELLO & BURMAN,  
APPEARED ON BEHALF OF PETITIONER;

MR. JAMES J. O'DONNELL APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon the filing by Ligma Corporation ("Ligma") of a Petition for Variance ("Petition") on August 18, 1988 and an Amended Petition for Variance ("Amended Petition") on April 25, 1989. Ligma requests variance from the prohibition against operating a new emission source without an operating permit found at 35 Ill. Adm. Code 201.143 and from the limitation imposed on emissions of volatile organic materials ("VOM") found at 35 Ill. Adm. Code 215.301 and 215.304; variance from the latter provisions is requested to extend until October 1, 1991.

The Illinois Environmental Protection Agency ("Agency") filed its statutory recommendation ("Recommendation") in response to the Petition on November 2, 1988 and a recommendation ("Amended Rec.") in response to the Amended Petition on June 12, 1989. The Agency recommends that variance be granted, subject to conditions.

Hearing was held November 1, 1988 at the Nashville City Hall. No members of the public attended or participated.

REGULATORY FRAMEWORK

35 Ill. Adm. Code 201.143 provides in pertinent part:

No person shall cause or allow the operation of any new emission source ... of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency ...

35 Ill. Adm. Code 215.301 provides in pertinent part:

No person shall cause or allow the discharge of more than 3.6 kg.hr (8 lbs.hr) of organic material into the atmosphere from any emission source, except as provided in Section ... 215.304 and the following exception: If no odor nuisance exists the limitation of this Subpart shall apply only to photochemically reactive material.

Section 215.304 provides in pertinent part:

The provisions of Sections 215.301 ... shall not apply to any ... user ... of paint, varnish, lacquer, coatings or printing inks whose compliance program and project completion schedule, as required by 35 Ill. Adm. Code 201, provides for the reduction of organic material used in such process to 20 percent or less of total volume by May 30, 1977.

"Photochemically reactive material" ("PRM") is defined at 35 Ill. Adm. Code 211.122:

any organic material with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or the composition of which exceeds any of the following individual percentage composition limitations. Whenever any photochemically reactive material or any constituent of any organic material may be classified from its chemical structure into more than one of the following groups of organic materials it shall be considered as a member of the most reactive group, that is, the group having the least allowable percent of the total organic materials.

A combination of hydrocarbons, alcohols aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic types [sic] of unsaturation: 5 percent. This definition does not apply to perchloroethylene or trichloroethylene.

A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent.

A combination of ethylbenzene, ketones having branched hydrocarbon structures or toluene: 20 percent.

### BACKGROUND

Ligma manufactures interior automotive parts for major automobile companies at a plant in the City of Nashville, Washington County, Illinois. The plant is located within an industrial park at the northeast extreme of Nashville (Agency Exh. 1); it employs 240 people.

The Nashville plant is a new facility which was entirely constructed and which commenced operation during 1988. Siting and start-up of the Nashville plant were facilitated through the efforts of the Illinois Department of Commerce and Community Affairs ("DECCA") (R. at 27). Among DECCA activities was facilitation of contacts between Ligma and the Agency to assure that the new facility could be granted construction and operating permits required by various environmental regulations (R. at 29-31). According to DECCA testimony, this effort originally focused on the possibility that Ligma would have to make a Prevention of Significant Deterioration ("PSD") demonstration (R. at 30-31; 41-43).

However, during review of Ligma's operating permit application it was discovered by the Agency that a bonding material, Bostic F, intended to be used by Ligma is a PRM pursuant to Section 211.122<sup>1</sup> and that it would be emitted in excess of the 8 lbs/hr limitation of Section 215.301. The Agency therefore notified Ligma that an operating permit for processes using Bostic F could not be issued absent the presence of control equipment or the granting of variance by this Board. Although the Agency has granted an operating permit authorizing the use of an alternative formulation, Bostic L, Ligma contends that the alternative formulation is inadequate to meet job specifications.

In its Petition, Ligma requested that the variance commence September 1, 1988. This request was later amended to November 1, 1988, the date Ligma commenced manufacturing operations pursuant to a contract with Ford Motor Company (Amended Petition at 5).

### COMPLIANCE PLAN

Ligma intends to attain compliance by eliminating the PRM in its bonding formulation and replacing it with water-based

---

<sup>1</sup> The Agency's conclusion is based on Bostic F containing 33.24% toluene. Bostic L, conversely, contains 15.3% toluene (Amended Rec. at para. 6).

material (Amended Petition at 4-5)<sup>2</sup>. Ligma contends that both its customers and suppliers have been working diligently to perfect a water-based bonding agent (Id. at 5) and that it is "highly probable that water based material will be available for use in Ligma's operation during 1990" (Id.).

In the event that Ligma is unable to introduce water-based solvents on or before October 1, 1990, Ligma commits to entering into a contract for the installation of emission control equipment which will enable it to be in compliance by October 1, 1991 (Amended Petition at 7). Hence, although Ligma intends to achieve compliance by October 1, 1990, it requests an additional year of variance to provide time to implement this fall-back plan.

#### HARDSHIP

Ligma contends that immediate compliance or compliance at a time sooner than the term of the variance would impose an arbitrary or unreasonable hardship upon Ligma because there is no currently available compliant bonding agent which can be substituted for Bostic F. Similarly, installation of emission control equipment cannot be accomplished immediately. Thus, absent grant of variance, Ligma could not lawfully continue with its current production processes and levels.

Of the compliance options, Ligma believes that an acceptable water-based substitute for Bostic F can be found or developed within a relatively short time. Because the cost of this option is minimal, Ligma prefers it over the emission control option; the capital costs alone of an afterburner system approach \$1 million (Petition at p. 45; Amended Rec. at para. 16). Thus, Ligma contends that a requirement to install an emission control system prior to giving the water-based bonding agent a fair evaluation would constitute hardship.

#### ENVIRONMENTAL IMPACT

Ligma contends that grant of the requested variance will not cause any adverse environmental impact (Amended Petition at 9). Ligma specifically addresses the impact that its continued VOM emissions would have on ozone production, noting that there has "never been a threat of an ozone problem" in or about the City of

---

<sup>2</sup> Prior to the filing of the Amended Petition, Ligma sought alternatively to attain compliance by reformulation of its organic-based bonding agent. This effort is apparently no longer under consideration.

Nashville (Id.; Petition at 40-42). Moreover, Washington County is an attainment county for ozone.

Nevertheless, Ligma adds that, if an ozone threat were to occur, it has prepared and filed with the Agency an Air Pollution Episode Action Plan, under the terms of which Ligma will reduce its emissions or even cease operations to avoid any threat to the public health (Petition at 42).

The Agency agrees with the thrust of Ligma's environmental analysis, and concludes that:

After review of the Nashville area and the proposed emissions it has been determined that a grant of variance will not adversely affect the air quality in the Nashville area. (Recommendation at para. 10)

The Agency also adds:

... a grant of variance should not cause an exceedence of the NAAQS for ozone in the Nashville area. (Amended Rec. at para. 10).

#### CONCLUSION

Based on the facts in this record, the Board finds that immediate compliance with the regulations, or compliance at a time sooner than the term of the variance, would impose an arbitrary or unreasonable hardship upon Ligma. The Board also agrees with the parties that no significant environmental impact will occur, assuming that compliance is timely forthcoming. Accordingly, the variance will be granted, subject to conditions consistent with this Opinion and the Illinois Environmental Protection Act.

As regards the term of the variance, the Agency recommends that variance be granted only until March 31, 1991. The Agency points out that Ligma does not justify the need for the a full year for installation of control equipment (Amended Rec. at para. 18). Rather, as the Agency notes, Ligma itself states that fabrication and installation of control equipment would take six to eight months (Petition at p. 47). The Agency further believes that the difference is significant because the added four to six months would encompass the 1991 ozone season. Ligma has not responded to this Agency argument.

The Board believes that minimization of PRM emissions during the 1991 ozone season is a necessary objective. In the absence of proof that emission control equipment could not be operative by March 31, 1991, the Board accordingly finds that compliance with the regulations as of that date would not impose an arbitrary or unreasonable hardship upon Ligma.

The Agency additionally recommends that a hearing be held on the Amended Petition "due to the modification of the proposed compliance plan and the significant increase in emissions" (Amended Rec. at para. 20). Ligma specifically requests that no additional hearing be held (Amended Petition at p. 9).

The Board finds that an additional hearing is not warranted. All material facts necessary for the Board's determination in this matter are present in the record. Additionally, the Board finds no material prejudice would result absent an additional hearing.

The Board believes that the Agency's concern respecting an additional hearing may be related to Ligma's responsibilities regarding a PSD demonstration, pursuant to 40 CFR 52.21. As the Agency notes, Federal PSD rules may be applicable if emissions exceed 250 tons per year (Amended Rec. at para. 12). The Board notes that this is not a matter relevant to the instant variance, and additionally notes that the instant grant of variance in no way insulates Ligma from the applicability of PSD rules.

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

#### ORDER

Ligma Corporation ("Ligma") is hereby granted variance from 35 Ill. Adm. Code 215.143, 215.301, and 215.304 for its facility located in Nashville, Illinois, subject to the following conditions:

1. Variance shall begin November 1, 1988 and terminate on October 1, 1990, except as provided below.
2. If a water-based bonding material is not available for use by Ligma by October 1, 1990, Ligma shall enter into a contract to purchase and install appropriate control equipment.
3. If control equipment is to be installed, a stack test shall be conducted of the ovens to determine actual emissions.
4. If control equipment is to be installed, the variance period shall run until March 31, 1991.
5. During the term of variance emissions of VOM shall not exceed 250 tons per year.
6. At no time during the term of the variance shall the bonding agent contain more than 33.24 percent by volume of toluene.

- 7. Ligma shall submit reports every three months to the Agency. The report shall detail compliance developments, other developments relating to VOM emission levels; weekly usage of adhesive by production line; a list of suppliers contacted for possible compliant adhesives with documentation, to include copies of letters to and from suppliers contacted, listing of samples provided by VOM content and test results of said samples; a list of trade associations contacted regarding possible compliant adhesives with documentation, as noted above; a list of trade publications and reviews consulted regarding possible compliant adhesives; and total VOM emissions. These reports shall be addressed to:

Mr. John Justice, Regional Manager  
 Division of Air Pollution Control  
 Illinois Environmental Protection Agency  
 2009 Mall Street  
 Collinsville, Illinois 62234

- 8. Within 45 days of the date of this Order, Petitioner shall execute and forward to James J. O'Donnell, Enforcement Programs, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62794-9276, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. The 45-day period shall be held in abeyance during any period that this matter is being appealed. Failure to execute and forward the Certificate within 45 days renders this variance void and of no force and effect as a shield against enforcement of rules from which variance was granted. The form of said Certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 88-131, July 13, 1989.

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 Authorized Agent

\_\_\_\_\_  
 Title

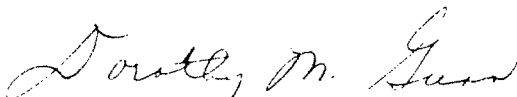
\_\_\_\_\_  
 Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111½ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Board Member Jacob D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 13<sup>th</sup> day of July, 1989, by a vote of 7-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board