

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1972

DECATUR MEMORIAL HOSPITAL)
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 v.) # 71-359
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 ENVIRONMENTAL PROTECTION AGENCY)

Opinion of the Board (by Mr. Currie):

Decatur Memorial Hospital seeks a variance to permit operation of a coal-fired boiler "which has emitted smoke in excess of Ringelmann #2" until April 15, 1972, when the boiler will be converted to oil and gas. Continued operation during the conversion is alleged to be necessary "to insure a reserve boiler during the cold season to April 15, and to allow operation of a coal boiler as the primary boiler during actual conversion." A reserve is required by the Hospital Licensing Act. The Agency recommends the petition be granted on certain conditions with which we agree, except that the time remaining is so short as to make the posting of bond hardly worth the trouble. The Agency also "notes with displeasure" that neither a letter of intent nor an emission control program was submitted under the 1967 regulations, but we do not have enough information to determine whether or not there was a particulate violation such that filing was required. We cannot therefore impose a penalty as a condition of the variance as we have done in cases of unjustified failure to file. E.g., Molex Corp. v. EPA, #71-200 (Jan. 6, 1972). We agree with the Agency that there is an evident need for operation of the boiler during the interim to avoid possible interruption of hospital service, and that the apparent harm from continued operation during that time is not so great as to justify a shutdown. We note that we do not expressly or impliedly sanction the use of any coal-fired boilers for reserve or other purposes after April 15, 1972.

Once again we observe that the Agency's recommendation was received on the 90th day after the petition was filed, the very day on which we are expected to make a decision. We do not believe this practice of late filing permits is ample time to make intelligent decisions, much less to seek additional information if the recommendation indicates the need. Moreover, the 90-day rule prescribes the outside limit for decision; we should in fairness to the parties do what we can to decide cases in less time whenever possible. Simple cases like this one should not require 90 days to decide.

ORDER

Decatur Memorial Hospital, Inc., is hereby granted a variance to permit smoke emissions in excess of regulation limits from a coal fired Lasker boiler until April 15, 1972, provided the following conditions are met:

1. The Hospital shall obtain an installation permit from the Agency as required by the regulations; and
2. No later than May 1, 1972, the Hospital shall submit to the Agency and to the Board a report indicating the date of completion and the number of hours the boiler was operated from receipt of this order until the project is completed.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion of the Board this 14th day of February, 1972 by a vote of 5-0.


