

ILLINOIS POLLUTION CONTROL BOARD
May 8, 1975

CELOTEX CORPORATION,)
)
 Petitioner)
)
 v.) PCB 75-61
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

The petition in this matter requests an extension of a Variance granted by the Pollution Control Board (Board) on February 7, 1974 in PCB 73-445. The Petition for Extension of Variance was filed on February 11, 1975, and on the same date a Motion was filed by Petitioner to grant the extension without a hearing, as authorized by Board Procedural Rule 405(b)(2).

On March 18, 1975, the Environmental Protection Agency (Agency) filed a Recommendation to grant the Petition, with certain conditions. On April 10, 1975, Petitioner filed a Response to Agency Recommendation.

In granting the prior Variance under PCB 73-445, the Board found that Petitioner Celotex Corporation (Celotex) was entitled to a Variance from Rules 404(a)(i) and 404(b)(i) of the Water Regulations because it had committed itself to meet the standards of Rule 404(b)(i) of the Water Regulations by May 1, 1975. The Board found this to be a good solution to an environmental problem that had persisted for an extended period of time. Celotex Corp. v. EPA, PCB 73-445, 11 PCB 185, 187 (1974). Rather than recite all the factors which led the Board to that determination, we refer the reader to the Board's Opinion in that matter. It is enough here to state that the compliance program which was approved at that time called for achievement of the BOD and SS standards of Rule 404(b)(i) by May 1, 1975, although the Variance granted was only until October 21, 1974.

According to the Agency's Recommendation in the instant case, Celotex has complied with all the conditions of the prior Order, and has produced an effluent which has substantially exceeded the quality permitted by the Variance (Ag. Rec. 5).

Petitioner has revised the compliance date from May 1, 1975 to July 1, 1975, citing numerous delays in equipment deliveries and site preparation delays caused by inclement weather (Pet. 4 and 5).

We concur with the Agency's Recommendation (Ag. Rec 7) that Petitioner's request for a Variance Extension should be granted as it pertains to that part of Sec. 12(a) of the Act which prohibits "the discharge of any contaminants so as to violate regulations or standards adopted by the Pollution Control Board", from that part of Rule 203(a) of Chapter 3 which requires that waters of the state be free from "unnatural sludge or bottom deposits, floating debris, visible oil, odor, unnatural plant or algae growth, and unnatural color or turbidity", and from Rules 404(a)(i) and 404(b)(i) of Chapter 3.

Petitioner has demonstrated commendable progress towards achieving compliance with the applicable rules. We noted "with satisfaction" in our prior Opinion that Celotex had committed itself to a program of compliance which would result in the elimination of a substantial load of wastewater effluent, which condition had existed since 1865, to the Mississippi River. Our satisfaction with that compliance program has not changed.

It should be noted that while this Variance Extension is couched in terms of an eight month period, the actual extension of time on the original compliance plan is in fact only two months. The Board in its prior Order understood that it would require at least until May 1, 1975 to complete the installation of the pollution control facilities. We find no fault with Petitioner for the two month delay, which apparently results from factors beyond its control.

The only contended issue in this matter is the frequency of reporting requested by the Agency in its Recommendation. In a Response to the Agency's Recommendation, the Petitioner has requested that it be required to report on BOD and SS sampling semi-weekly, on a quarterly basis as required by its NPDES permit. The Agency had recommended daily sampling and monthly reporting. Insofar as Petitioner has shown a commendable history of complying with the prior Board Order, and a good faith effort to minimize the pollutant content of its effluent, we see no need to saddle it with an additional administrative burden. Petitioner has demonstrated that more regular reports are quite likely not necessary to ensure compliance with the conditions of our Order.

Petitioner in its Response to the Agency Recommendation has agreed to the remainder of the conditions requested by the Agency. We feel that this also demonstrates a willingness to achieve compliance in accordance with the Board's directives.

No hearing was held in this matter.

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 Celotex Corporation is granted a Variance from October 22, 1974 to July 1, 1975 from that part of Sec. 12(a) of the Environmental Protection Act which prohibits "the discharge of any contaminants so as to violate regulations or standards adopted by the Pollution Control Board", from that part of Rule 203(a) of Chapter 3 which requires that waters of the State be free from "unnatural sludge or bottom deposits, floating debris, visible oil, odor, unnatural plant or algae growth, unnatural color or turbidity", and from Rules 404(a)(i) and 404(b)(i) of Chapter 3, subject to the following conditions:

a) The performance bond submitted by Petitioner in compliance with the Board Order in PCB 73-445 be continued in force and extended for the period of time of this Variance extension;

b) That discharges from Petitioner's facility not exceed the following:

	<u>Daily Average</u>	<u>Daily Maximum</u>
BOD ₅	150 mg/l	300 mg/l
Suspended Solids	100 mg/l	200 mg/l

c) That the partial Variance from Section 12(a) of the Act apply only to BOD and Suspended Solids;

d) That Petitioner continue to submit monthly progress and operating reports to the Environmental Protection Agency; and,

e) That Petitioner should sample his discharges twice weekly and report the results quarterly to the Agency.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of May, 1975 by a vote of 5 to 0.

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