

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1975

BORG WARNER CORP.,)
YORK DIVISION,)
Petitioner,)
)
v.) PCB 75-167
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

This matter first came before us on a Variance Petition received April 23, 1975 in which Petitioner Borg Warner Corporation (Borg Warner) requested relief from Rule 204(c)(2)(A) of the Pollution Control Board (Board) Air Pollution Regulations. PCB Regs., Ch.2: Air Pollution. In an Interim Order of May 8, 1975 the Board found that Petition insufficient for failure to address the requirements of the Supreme Court decision of Train v. N.R.D.C., 43 U.S.L.W. 4467 (U.S., April 16, 1975), and ordered that further information be submitted to correct the deficiency. An Amended Petition was received from Borg Warner on June 27, 1975 containing the requested information. The Environmental Protection Agency submitted its Recommendation on July 28, 1975, recommending that the requested Variance be granted. No hearing was held in this matter.

The Petition and Amended Petition in this matter concern Borg Warner's York Division (York), which is located near the south edge of Decatur at 625 South Side Drive. This is a large facility, (approximately 10 acres under one roof), at which 536 employees are engaged in the high volume manufacture of automotive air conditioning system compressors. (Both employment and production at the Decatur facility are down significantly as a result of depressed economic conditions, especially in the automotive industry.) Another Borg Warner Division, Marvel Schebler/ Tillotson (Marvel) is located on property adjacent to that occupied by York.

The power plant at York's Decatur facility consists of four steam-generating boilers which are used to supply steam processing and heating purposes. (Amended Pet., Ex. 4, p.3). The primary fuel for these boilers is natural

gas, for which York has an interruptable contract with Illinois Power Company. The boilers are also equipped to use fuel oil as a standby fuel during periods when Illinois Power is unable to supply natural gas. York and Marvel share a one-million-gallon oil storage tank to hold what they consider an adequate supply of oil for such periods of natural gas unavailability. The tank presently contains approximately 800,000 gallons of fuel oil with 1.3% sulfur content. Since Rule 204(c)(2)(A) requires that 0.93% sulfur content oil be used in York's situation, York is seeking a Variance from that Rule to allow the use of the 1.3% oil presently in storage during the 1975-1976 heating season. Such usage of present oil stocks will allow sufficient room in the storage tank to allow blending with 0.3% sulfur content oil, and compliance with Rule 204(c)(2)(A) by May 31, 1976.

Whenever possible, York uses natural gas as its boiler fuel. In 1973, Illinois Power estimated that it would be unable to supply gas on 179 days during the 1973-1974 heating season. To deal with this problem, York leased 50 railroad tank cars and constructed the present 1,000,000 gallon oil storage tank. Since York's boilers consume approximately 6,000 to 7,000 gallons of oil per day during extended periods of gas unavailability, and up to 10,000 gallons on very cold days, it was felt that the 1,000,000 gallon tank would provide storage sufficient to allow maintenance of a one-year oil supply. Expecting significant periods of gas supply curtailment, York then apparently obtained whatever oil was available, some of which had a sulfur content as high as 2.5%.

During the 1973-1974 heating season, York's gas supply was actually curtailed on only 42 days, and only 160,000 gallons of oil were used. Subsequently, 100,000 gallons of oil belonging to Marvel were transferred into York's million-gallon tank, leaving a combined inventory of 940,000 gallons at the start of the 1974-1975 heating season.

For the 1974-1975 heating season, Illinois Power forecasted 79 days of gas supply curtailment. Based on that forecast, York estimated that Marvel would use 118,500 gallons during the 1974-1975 heating season and that York itself would use 553,000 gallons. This combined usage would have left a Spring, 1975, inventory of 268,000 gallons of 1.3% sulfur content oil, which could easily have blended with low-sulfur oil to achieve compliance with Rule 204(c)(2)(A).

During 1974-1975, gas supplies were interrupted less than was expected, due to a mild winter. In addition, production at York was cut drastically due to the depressed economy. The result is that York and Marvel presently have on hand 800,000 gallons of oil with 1.3% sulfur content.

York and Agency calculations agree that to achieve compliance with Rule 204(c)(2)(A) the inventory in the 1,000,000 gallon tank at York must be drawn down to approximately 630,000 gallons. This will allow the blending of 63% of the present oil, having a 1.3% sulfur content, with 37% of low-sulfur oil, having a 0.3% sulfur content. To allow such blending with present supplies, York asks that it be allowed to continue to burn 1.3% sulfur content fuel oil during gas supply curtailments until March 31, 1976. After that time York will force-burn remaining oil, if necessary, to reach the required "blending level" of 630,000 gallons of 1.3% sulfur content oil, and will add 0.3% sulfur content oil during April and May, 1976, to achieve compliance by May 31, 1976.

We feel that York has indeed shown that it would be an unreasonable financial hardship to require immediate compliance with Rule 204(c)(2)(A). Costs of immediate compliance would probably exceed \$135,000, most of which would be unrecoverable. Before granting this Variance, however, we must examine the factors mandated in the U.S. Supreme Court decision of Train v. N.R.D.C., supra.

In response to the Board's Interim Order of May 8, 1975, York submitted both actual SO₂ readings for the Decatur area (Ex. 3) and an extensive dispersion model for its SO₂ emissions (Ex. 4). The actual SO₂ readings, taken from Agency data, indicate that Decatur does not have a problem with SO₂ concentrations, and the modeling done by York indicates that future violations of the ambient air quality standards are improbable.

Further strengthening the conclusions to be reached from York's dispersion model for SO₂, the Agency Recommendation includes calculations indicating that even under very strict conditions ambient air quality standard violations would not result from York's operations. York's model used a mean wind speed of 5.8 meters per second (m/second). Agency calculations using 1 m/second and 2.2 m/second, for stability classes B and E respectively, showed that no violations of the 3 or 24 hour air quality standards could be expected.

Based on these calculations and the actual readings of SO₂ concentrations for Decatur, we find that there is no indication York will cause or contribute to any violation of the national ambient air quality standards. This finding, and our finding that a requirement of immediate compliance with Rule 204(c)(2)(A) would work an unreasonable hardship on the York Division of Borg Warner, lead us to the conclusion that a grant of the requested Variance is justified by the instant record.

In granting this Variance we shall adopt the conditions suggested by the Agency in its Recommendation. We feel that a performance bond of \$10,000 will suffice to assure completion of York's compliance plan.

In closing, we note that we do not accept the Agency's argument in its Recommendation relating to the Train case, supra. The Board's position on this matter has been stated before. See, King-Seeley Co. v. EPA, PCB 75-159, April 24, 1975. Further, we reject the Agency's Recommendation that a Variance be given to Borg Warner's Marvel Division. Such a Variance is neither asked for nor justified in the record here.

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:

1. Petitioner Borg Warner Corporation, York Division, is granted a Variance from Rule 204(c)(2)(A) of Chapter 2: Air Pollution, of the Pollution Control Board Regulations, until May 31, 1976 for its facility in Decatur, Illinois, subject to the following conditions:

a. Petitioner shall submit written notice from Illinois Power Company of any gas supply curtailment, within 3 working days after receiving such notice, to:

Environmental Protection Agency
Division of Air Pollution Control
Control Program Coordinator
2200 Churchill Road
Springfield, Illinois 62706

b. Petitioner shall submit notice of the end of any such curtailment within three working days, to the above address.

c. By January 1, 1976, Petitioner shall submit a report to the above address outlining the source of 0.3% sulfur-content oil and its program to blend said oil with existing supplies of oil to achieve an overall 0.93% sulfur-content oil by May 31, 1976.

d. During any gas supply curtailment by Illinois Power Company, Petitioner shall use only oil from existing supplies.

e. Within 30 days of the date of this Order, Petitioner shall submit a performance bond in the amount of \$10,000 in a form acceptable to the Environmental Protection Agency, to assure completion of the compliance program outlined in this Opinion and Order, to the above address.

2. Within 30 days of the date of this Order, Petitioner shall submit to the above address a certification in the following form:

I (We), _____, having read and fully understanding the Opinion and Order of the Illinois Pollution Control Board in PCB 75-167, hereby accept said Order, understanding that such acceptance renders all terms and conditions thereto binding and enforceable.

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 18th day of September 1975 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board