

ILLINOIS POLLUTION CONTROL BOARD  
June 28, 1971

GAF CORPORATION )

v. )

# 71-11

ENVIRONMENTAL PROTECTION AGENCY )

Alvin Liebling, for the Attorney General

Delbert Haschemeyer, for the Environmental Protection Agency

Robert W. Thomas of Gray, Thomas, Wallace, Feehan & Baron, Joliet,  
and Robert H. Joyce of Seyfaith, Shaw, Fairweather & Geraldson,  
Chicago, for GAF Corporation

Opinion of the Board (by Mr. Currie):

On April 19 we entered an order granting a two-month variance to GAF, on certain conditions, to discharge wastes to the Des Plaines River while pursuing a construction program to bring itself into compliance with the regulations. The two months, we knew, was not ample time for completion of the program; the order contemplated that the company would seek an extension of the variance by submitting a firm schedule for the remaining work.

On June 17 the company submitted a supplemental petition asking that the variance be extended to April, 1972, the new accelerated completion date for its secondary treatment facilities. The petition recited steps taken since the April 19 order and set forth the company's program.

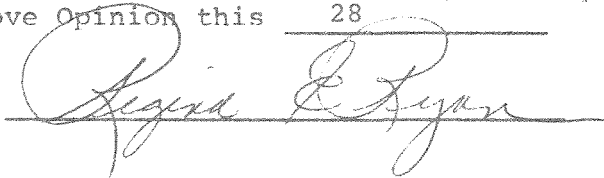
The company also filed, June 16, a request for an interim extension of the variance, as also expressly contemplated by our order, pending resolution of merits of the supplemental petition. GAF appeared before the Board June 21 to argue in support of the motion for interim relief, pointing out that to deny the extension would expose its employees to possible criminal penalties for violating the regulations if the plant remained in operation. The Attorney General, appearing for the Agency, asked that we defer decision on the interim motion until June 23, promising that no complaint would be filed for operation prior to our decision on this motion. The parties appeared before us again June 23 for final argument.

We grant the motion for extension of the variance for 90 days, or until our decision on the merits of the supplemental petition is rendered whichever is sooner. The original order provided for such an extension only if certain conditions were met. Not all of them have been. The money penalty imposed has not been paid, but that

is understandable since its legality has been appealed. The bond we required has not been filed, again because of an appeal over its form and content. The company has, however, agreed that adequate security will be promptly posted if its program is approved, and the nature of the security will be fully litigated in the coming proceeding. There were several other departures from the literal requirements of the initial order. But, without determining the extent of compliance with the order, we think the company has shown sufficient good faith commitment to curing its pollution problem to entitle it to continue operating while we pass upon the merits of its program. The problem of permits has apparently been corrected; overtime will be utilized whenever it will save significant time; the principal equipment has been ordered; construction of the secondary facilities will begin in a matter of days; further study has shown reduced lead concentrations, and a schedule for further reductions, if necessary, will be presented in the pending proceeding. Our action today, the parties have stipulated, in no way shall prejudice the rights of any party, including the Board, either in the pending appeal or in the subsequent proceeding on the merits of the supplemental petition.

Because of the substantially new fact situation, we hereby authorize a hearing on the supplemental petition.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 28 day of June, 1971.



A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.