

ILLINOIS POLLUTION CONTROL BOARD  
April 11, 1972

U. S. INDUSTRIAL CHEMICALS COMPANY )  
DIVISION, NATIONAL DISTILLERS AND )  
CHEMICAL CORPORATION ) #71-44  
v. )  
ENVIRONMENTAL PROTECTION AGENCY )

INTERIM OPINION AND ORDER OF THE BOARD (BY MR. LAWTON):

On March 21, 1972, the Board received a Motion filed by U. S. Industrial Chemicals Company Division, National Distillers and Chemical Corporation, seeking amendment to the Board's Order of Variance granted on October 14, 1971, in three particulars: First, that petitioner be permitted to operate its sulphuric acid plant until May 31, 1972 in lieu of March 30, 1972 as originally provided; Second, that paragraph 3 of the October 14, 1971 Order, which presently provides as follows:

"3. U. S. Industrial Chemicals Co., through an independent recognized consultant, shall establish, operate and maintain continuous monitoring stations for SO<sub>2</sub> for the period from April 1, 1972 to September 1, 1972 in the area where crop damage has occurred in the past. Within 30 days after September 1, 1972, the company shall file with the Board and Agency a program for the alleviation of excess SO<sub>2</sub> levels sufficient to cause plant damage. The Board shall issue a further order as required."

be amended by substituting for the last two sentences thereof, the following:

"Within thirty (30) days after September 1, 1972, the Company shall file with the Board and Agency a report containing the results of such monitoring."

and that paragraph 4 of the October 14, 1971 Order with respect to the posting of the bond, which now provides as follows:

"4. The company shall, within thirty-five days after receipt of this order, post with the Agency a bond or other security in the amount of \$500,000.00, in a form satisfactory to the Agency, which sum shall be forfeited to the State of Illinois in the event that the conditions of this order are not complied with or the facilities in question are operated after expiration of these variances in violation of regulation limits."

be amended to read as follows:

"The Company shall post with the Board a Performance Bond in the penal sum of Five Hundred Thousand Dollars (\$500,000) with Surety thereon to assure the performance of the conditions set forth in the Board's orders and that the facilities in question shall not be operated after the expiration of regulation limits."

A form of performance bond as proposed by petitioner is appended to the motion. The Environmental Protection Agency filed an answer to the motion to amend recommending that all elements of petitioner's motion be denied. In substance, the Agency contends that the petitioner has not asserted any reasons why it has failed to meet the deadline for the shut-down of its sulphuric acid plant, that the proposed amendment to paragraph 3 would obviate the need for petitioner to take any steps to abate its sulphur dioxide discharges and that the modification with respect to the bond requirements and the bond itself are completely unsatisfactory to the Agency.

Petitioner states that the new direct hydration alcohol unit which will supplant the sulphuric acid plant "should be in operation on or before March 30, 1972" and that the additional time between that date and May 31, 1972 is needed in order to assure proper functioning and full operation of the new direct hydration alcohol unit.

Because the March 30, 1972 date has passed and because of the short period remaining until May 31, 1972, a hearing on this subject does not appear warranted. Nor has petitioner set forth adequate reasons why it is incapable of complying with the provisions of paragraph 3 as originally ordered. Lastly, while the Agency has indicated that it does not approve of the form of bond, it has set forth no reasons for its disapproval.

Accordingly, it will be our order that the petitioner, within ten days of the date of this order, file an affidavit setting forth all facts which it feels justify the modifications requested, including

a detailed report on the status of the sulphuric acid plant and the direct hydration alcohol unit, together with documentation and data regarding the reasons why petitioner is incapable of complying with paragraph 3 of the order, as originally entered.

The Agency, within ten days of this order, shall file an affidavit, covering all of the items above set forth with respect to the sulphuric acid plant, the direct hydration alcohol unit and the capability of petitioner to comply with paragraph 3 of the order, together with its reasons for disapproving of the form of bond as set forth in petitioner's motion.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Interim Opinion and Order was adopted on the 11th day of April, 1972 by a vote of 5-0.

Christan L. Moffett