

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Petition of W.R. GRACE & CO. - CONN.,) R 98-16
)
and,)
)
ILLINOIS ENVIRONMENTAL PROTECTION) (Site-Specific
AGENCY) Rulemaking)
)
for Site-Specific Air Regulation:)
35 Ill. Admin. Code 218.940(h))

The following is the transcript of a hearing held in the above-entitled matter, taken stenographically by GEANNA M. IAQUINTA, CSR, a notary public within and for the County of Cook and State of Illinois, before John C. Knittle, Hearing Officer, at 100 West Randolph Street, Chicago, Illinois, on the 21st day of January, 1998, A.D., commencing at 1:00 o'clock p.m.

A P P E A R A N C E S:

HEARING TAKEN BEFORE:

ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-6923
BY: MR. JOHN C. KNITTLE

HODGE & DWYER,
808 South Second Street
Springfield, Illinois 62704
(217) 523-4900
BY: MS. N. LADONNA DRIVER

Appeared on behalf of W.R. Grace & Co. - Conn.,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794
(217) 524-3157
BY: MS. CHRISTINA L. ARCHER

ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

Mr. Joseph Yi
Mr. Jack Burds
Mr. Robert O'Brien

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THE COURT: Well, good afternoon, everybody. My name is John Knittle, and I have been appointed hearing officer for the petition entitled -- the matter entitled In The Matter of the Petition of W.R. Grace & Company-Connecticut and The Illinois Environmental Protection Agency for a Site-Specific Air Regulation, 35 Illinois Administrative Code 218.940(h).

Sitting on my left-hand side is Mr. Joseph Yi, who is the presiding Board member in this matter, and also present from the Pollution Control Board is Bob O'Brien who is the technical unit representative.

This is the first hearing of this proceeding which was filed on November 20th, 1997, as a joint proposal by the Illinois Environmental Protection Agency and W.R. Grace. We are conducting this hearing in an expedited fashion due to a Board order dated December 18th, 1997.

This hearing commenced originally on January 8th, 1998, and was continued on the record to this date and time due to adverse weather conditions on January 8th, and I'm glad to see that we have a better attendance than we did on that day.

At the front of the room -- outside of the room I put a sign-up sheet for the notice list if you want to be on the notice list. I think everybody here is. You're more

than welcome to sign up, and I'd be more than happy to explain it to anybody after the hearing. I also put out prefiled testimony and the current notice list. If anybody wants to go out and take a look, they'd be more than welcome.

The Board received some prefiled testimony in this case. We're going to start with W.R. Grace, if that's okay, and finish with the testimony from the Agency and the testifiers will have the option, as we've already talked about, of reading the testimony or summarizing the testimony or having it entered into the record as if read, and we will allow questions after each person -- testifier is sworn in and the specific testimony is entered into the record, and then after we finish with the testimony, we'll see if there's anybody else present who has questions, but judging by the attendance to this point, I don't think that will be an issue.

At this point, I'd ask Mr. Yi if he has anything that he'd like to say before we get started?

MR. YI: Thank you, Mr. Knittle. Welcome, this afternoon. On behalf of the Pollution Control Board, I want to welcome you all to this meeting this afternoon. The Board is very cognizant of the importance of this rulemaking to both proponents with guidance from our

hearing officer. I'm looking forward to a very fair and efficient rulemaking. Welcome.

THE COURT: Thank you very much, Mr. Yi.

If there's any proponent who would like to give an opening statement of some sort, they'd be more than welcome to have the opportunity. Does anyone from W.R. Grace wish to make an opening statement?

MS. DRIVER: I'll do it. My name is LaDonna Driver, and I'm an attorney with Hodge & Dwyer for W.R. Grace. With me today is Rich Ireelan from W.R. Grace, Aaron Abbott from W.R. Grace, and Bob Wells from Versar.

We wish to thank the Illinois EPA and the Board for its cooperation in expediting this rulemaking, and we request that the Board grant the joint proposal for rulemaking as soon as possible.

As the hearing officer stated, we prefiled statements for our witnesses and the testimony documents, the history of Grace's compliance efforts with Subpart QQ, and I won't go into that in detail now, but, briefly, Grace did install a catalytic oxidizer pursuant to its 1995 variance that was granted by the Board, and shortly after operation, that oxidizer experienced an explosion in June of 1996.

Grace and the Agency worked together and obtained a

supplemental variance and the variance extension in February of '97 to deal with some of the regulatory issues from the explosion, and as part of that, the compliance plan for that variance called for a control option investigation, and that investigation was conducted by Versar.

The investigation that Versar did concluded that there was no feasible and economically reasonable control option for Grace to achieve compliance for Subpart QQ for its solvation mixing process.

In November of '97, the parties jointly filed a proposal for a site-specific rulemaking which would add a new section to Subpart QQ at 218.940(h) and this would exempt the solvation mixers at this facility from Subpart QQ's control requirements.

Rich Irelan is available to testify today about the background on this facility and the process at issue as well as Grace's efforts to meet the requirements of Subpart QQ, the Board's variance orders previously granted, and the permits obtained from the Agency.

Mr. Irelan is also available to testify regarding the oxidizer explosion and Grace's efforts to work with the Illinois EPA after that on resolution of the regulatory issues in hand.

Aaron Abbott is available to testify today regarding Grace's efforts to comply with Subpart QQ over the last several years, the feasibility and safety issues that have been involved, as well as the technical data on the oxidizer explosion.

Mr. Abbott is also available to testify regarding VOM emissions from this process and the reductions in VOM emissions that have been occurring in the last several years. He can also testify about the process equipment issues that are involved.

Mr. Wells is available to testify today regarding the control device investigation that was conducted by Versar, the control options that were studied, and the basis for Versar's conclusions in that study.

We believe that the previous filings and the testimony in the variance hearing show that there's no add-on control technology that's RACT for the solvation process at this facility. There's no technically feasible or economically reasonable way for this process to comply with the control requirements of Subpart QQ.

We appreciate the Board going to first notice expeditiously and scheduling this hearing expeditiously as well. As we've stated in our filings under our prior variance, we need to have this rulemaking in place by May

15th of this year, and we request the Board render its decision as soon as it can and get this rulemaking sent to second notice.

At this time, I would like to move that the prefilled statements of LaDonna Driver, Rich Irelan, Aaron Abbott, and Bob Wells be entered as Exhibits A through D today, and our witnesses are available to answer any questions that you might have.

THE COURT: Okay. Just for the record, Exhibit 1A through D?

MS. DRIVER: That would be fine.

THE COURT: Are there any objections to those exhibits being entered that way?

MS. ARCHER: No.

THE COURT: Okay. Those will be entered into the record as Exhibits 1A, the opening statement of LaDonna Driver. Exhibit 1B will be the testimony of Richard M. Irelan -- Irelan?

MR. IRELAN: Irelan, just like the country.

THE COURT: Exhibit 1C will be the testimony of Aaron G. Abbott, and Exhibit 1D will be the prefilled statement of Robert C. Wells, and I've marked those as Exhibits 1A through D.

(Exhibit Nos. 1A through D
marked for identification,
1-21-98.)

THE COURT: Does the Environmental Protection Agency have an opening statement, or would you rather swear in the witnesses first and offer them for testimony?

MS. ARCHER: It doesn't matter. I don't think we're going to have any questions for W.R. Grace's witnesses.

THE COURT: Okay. Why don't -- why don't we give you the chance to give an opening statement then.

MS. ARCHER: Thank you.

Good afternoon. My name is Christina Archer, and I represent the Illinois Environmental Protection Agency. With me today is Mr. Kevin Mattison from our source monitoring unit, Mr. Yeric Yarrington from our compliance and systems management unit, and Mr. Brooke Peterson who is a legal investigator with the Illinois EPA.

The Illinois EPA is jointly petitioning the Illinois Pollution Control Board today, along with W.R. Grace, to adopt the site-specific rulemaking to be located at Section 218.940(h) of the Board's air pollution control regulations for W.R. Grace's solvation mixers at its

facility located at 6050 West 51st Street in Chicago.

Section 218.940(h) would exempt W.R. Grace from the control requirements of Subpart QQ in part 218. W.R. Grace would still be subject to the record keeping and reporting requirements of the subpart.

Today's site-specific regulatory proposal, docketed as R 98-16, is the culmination of a long regulatory process to determine the appropriate control mechanism -- compliance mechanism, excuse me, for W.R. Grace, and the Illinois EPA believes that everything has been very thoroughly documented to this point.

W.R. Grace has had variance relief for its solvation mixers for several years. The current variance, which is docketed R 96-193, is due to expire on May 15th, 1998. The current variance contains a compliance plan, which the parties negotiated, that would have enabled W.R. Grace to come into compliance with applicable regulatory requirements of Subpart QQ through the use of add-on controls.

However, both parties subsequently determined that no add-on controls was the appropriate compliance mechanism. The parties are here today asking the Board to adopt the site-specific regulation.

The Illinois EPA has prefiled the testimony of Kevin

Mattison and Yeric Yarrington in this matter.

Mr. Mattison's testimony focuses on the events prior to and following the control device explosion at W.R. Grace in June of 1996 and the Illinois EPA's and Grace's efforts to determine whether it was possible for Grace to safely continue operation of its control device.

Mr. Yarrington's testimony focuses on the compliance plan and the current variance and the parties subsequent determination that it is not possible to safely operate the control device.

The Illinois EPA would now move that the Board enter Mr. Yarrington's and Mr. Mattison's testimony into the record as if read to be marked as Exhibits 2A and 2B. Both Mr. Mattison and Mr. Yerrington are available to answer any questions anyone may have as well as Mr. Peterson.

The Illinois EPA would like to thank both the Board and W.R. Grace for its patience and cooperation throughout this matter for the past several years. It's been very frustrating at times, and the Illinois EPA appreciates it very much.

The Illinois EPA would request that the Board adopt the site-specific regulation as expeditiously as possible before the expiration of the current variance. Thank

you.

THE COURT: Okay. Are there any objections to prefiled testimony from the Illinois Environmental Protection Agency being admitted as Exhibits 2A and 2B --

MS. DRIVER: No objection.

THE COURT: -- as if read into the record?

MS. DRIVER: No objection.

THE COURT: Okay. Then this will be marked and entered into the record as if read with the prefiled testimony of Yeric Yarrington being entered as Exhibit 2A and the prefiled testimony of Kevin J. Mattison being entered as Exhibit 2B.

(Exhibit Nos. 2A and B marked
for identification,
1-21-98.)

THE COURT: Okay. It should be noted for the record that Jack Burds, a hearing officer for the Pollution Control Board, has just entered the room.

MR. BURDS: I did.

MS. ARCHER: Off the record.

(Discussion had
off the record.)

THE COURT: I was going to have each witness sworn in individually, but I think I'd like to do -- if

there are no objections, can we swear in W.R. Grace's witnesses at one time and then the EPA's witnesses after that? Okay. Then I'd like to ask you to swear in the witnesses for W.R. Grace.

(Witnesses sworn.)

WHEREUPON:

A A R O N G. A B B O T T

R I C H A R D M. I R E L A N

R O B E R T C. W E L L S

called as witnesses herein, having been first duly sworn, depose and saith as follows:

THE COURT: Okay. And at this point, if anybody has any questions for the witnesses from W.R. Grace on the prefiled testimony or any other issues that may come to mind, now would be the time to ask. Does anybody have any questions?

MS. ARCHER: None from the Illinois EPA.

THE COURT: Does the Illinois Pollution Control Board technical representative have any questions?

MR. O'BRIEN: No, we don't.

THE COURT: Okay. That being said, why don't we swear in the witnesses from the Agency.

(Witnesses sworn.)

WHEREUPON:

K E V I N J. M A T T I S O N

Y E R I C Y A R R I N G T O N

called as a witnesses herein, having been first
duly sworn, depose and saith as follows:

THE COURT: Does W.R. Grace have any questions
of the Agency's witnesses?

MS. DRIVER: No, we don't.

THE COURT: Does the Pollution Control Board
have any questions of the Agency's witnesses?

MR. O'BRIEN: No, we don't.

THE COURT: Okay. I think that being said and
there being no questions from anybody, I'd like to ask
both W.R. Grace and the Agency if, perhaps, we could
recess for about 20 minutes just to make sure no members
of the public plan on attending and asking any questions
of any witnesses.

So I'm going to recess this on the record if there --
continue this on the record if there are no objections at
this time, and we will stand to be continued until 1:40,
which is about 20 minutes from now.

MS. ARCHER: Fine.

THE COURT: Thank you.

(Break taken.)

THE COURT: We are now back on the record, and there were no members of the public that showed up, and, in fact, no members of the public have attended either portion of this hearing, either that on January 8th, 1998, or January 21st, 1998, and seeing as how there were no questions for any of the witnesses today, this hearing is pretty much over.

I would like to note that the proposal was published in the Illinois register on January 9th, 1998, and if my calculations are correct, and feel free to correct me if I'm wrong, 45 days after is February 23rd, 1998.

So we're going to set February 23rd, 1998, as the last day that comments and testimony will be accepted. The mailbox rule will apply. So you can mail it on that date if you so choose.

Is there anybody else who has a comment they would like to make at this time? Seeing nobody identifying themselves, that concludes today's hearing. Thank you all very much for your time and attention, and this hearing is closed.

(Whereupon, these were all the proceedings had in the above-entitled matter.)

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

I, GEANNA M. PIGNONE-IAQUINTA, do
hereby state that I am a court reporter doing business in
the City of Chicago, County of Cook, and State of
Illinois; that I reported by means of machine shorthand
the proceedings held in the foregoing cause, and that the
foregoing is a true and correct transcript of
my shorthand notes so taken as aforesaid.

Geanna M. Pignone-Iaquinta
Notary Public, Cook County, IL
Illinois License No. 084-004096

SUBSCRIBED AND SWORN TO
before me this ____ day
of _____, A.D., 1998.

Notary Public