

ILLINOIS POLLUTION CONTROL BOARD
September 16, 1971

GAF CORPORATION)
)
 v.) PCB 71-11S
) (Supplementary)
 Environmental Protection Agency)
)

Mr. Robert W. Thomas (Gray, Thomas, Wallace, Feehan and Baron)
and

Mr. Kenneth D. Archer, Associate Counsel, GAF Corporation, on behalf
of the petitioner

Mr. Fred Prillaman, on behalf of the respondent

Opinion of the Board (by Mr. Dumelle)

Originally GAF Corporation (GAF) filed a petition for variance on January 27, 1971. A hearing was held and on April 19, 1971 the Board issued an opinion and order granting a variance until June 19, 1971 subject to several conditions including a requirement that GAF file a supplemental petition before June 19, 1971. On June 17, 1971 GAF filed the instant petition requesting that the variance be extended to April 30, 1972. On June 16 GAF filed a request for an interim extension of the variance pending disposition of the supplemental petition. The Board issued an order on June 23 granting an interim extension of the variance for 90 days or until a decision on the supplemental petition was rendered.

The variance was sought to shield the company from prosecution for violation of water pollution regulations during the period that installation of treatment facilities was underway. Specifically GAF sought to be allowed to discharge BOD and suspended solids in excess of the amount allowed by the existing regulations.

The company's operations and the quantities of contaminants discharged as well as other aspects of the history of this case were extensively dealt with in the Board's opinion of April 19. The manufacturing operations at the GAF Joliet location are centered about the production of roofing felt. The plant's effluvia was flowing untreated into the Des Plaines River at a daily rate of 15,000 pounds of biological oxygen demand (BOD) and 20,000 pounds of suspended solids (R.62). The quantity of these two contaminants discharged into the Des Plaines is at least 20 times the amount presently allowable by regulation.

Since the first hearing before this Board on this matter on March 22, 1971 GAF has begun and reportedly has completed construction of the primary treatment facilities. During the second hearing in this matter, the hearing on the instant supplemental petition, held on August 10, 1971 Mr. Anthony Melchiorre, project manager in the GAF corporate engineering department, testified that the primary facilities would be functional after September 1, 1971. Operation of the primary treatment facilities should result in a decrease of 50% in the discharge of suspended solids and a decrease of 15% in the amount of BOD discharged (R.54,83,109). As regards the secondary treatment facilities Mr. Melchiorre stated that the aerating basin, clarifiers, centrifuges and other units comprising the secondary facilities should be complete by April 30, 1972 (R.49,54). Work is presently proceeding on the secondary facilities in the most expeditious way possible according to Mr. George Wise, the principal contractor's project manager (R.111). He stated that the critical path scheduling for this project is under careful and continuous scrutiny.

A permit for the treatment facilities has been secured from the Environmental Protection Agency (R.24-25, 34). A lease for the property on which the facilities are located has been obtained and GAF has secured a required easement from the E.J. & E. Railroad (R.27). The company has also secured a required license needed to provide roadway access to the treatment area (R.28). All the permits necessary for the construction of both the primary and secondary facilities have been obtained or as in the case of the Illinois Division of Waterways and Army Corps of Engineers permits, are in the process of being obtained while construction of the facilities is underway (R.31).

GAF has contracted with Catalytic, Inc. to evaluate, design, and construct the treatment facilities (R.50). GAF's contractor has been instructed to use overtime work whenever possible to accelerate the completion date of the treatment facilities (R.54). There was testimony, however, that for most of the construction period the job could not be speeded up with overtime as the critical factor holding up the completion date was delivery of major items such as the centrifuges (R.77).

The condition of the Des Plaines River is about the same now as it was a few short months ago. The River has been badly polluted for a number of years. Contaminants continue to be dumped into it from its source to its confluence with the Illinois River; effluents from municipal sewage treatment works as well as industrial wastes are a daily burden. To be sure the Des Plaines River, as any flowing stream, cleanses itself as it moves along, depositing particulate on the bottom and enriching itself with oxygen from the air, which helps break down the organic wastes in the water, yet it remains a great flowing depository of wastes. It can aptly be characterized as a massive open sewer after it has accepted the treatment plants effluents from the Chicago metropolitan area. Until the Chicago area treatment plants go on line with tertiary treatment of municipal and industrial wastes and some form of control of the combined sewer problem is

effected, the quality of the Des Plaines River at Joliet will remain low. This is one reason, as we stated in our Opinion of April 19, that this Board can consider granting this variance request.

At the first hearing on this matter the company sought to portray itself as a pollution fighting Gulliver restrained by a number of government agency Lilliputians. The picture which emerges from the present state of the facts is quite different. GAF has elected to proceed post haste to abate the polluttional nature of its aqueous discharges. We therefore grant the requested variance subject to several conditions.

The conditions attached to this grant of a variance are not unlike those stated in the order of April 19, 1971. Further, as we stated in our opinion of June 28 (and order of June 23), following a hearing on the motion requesting interim relief, the conditions of our order of April 19 relating to the payment of a money penalty and the posting of a bond are not affected by the instant opinion and order. Resolution of GAF's refusal to comply with those conditions enumerated in the order of April 19 is left to the Illinois Appellate Court. The several conditions connected to the instant grant are in furtherance of the policy expressed in the Environmental Protection Act which authorized this Board to grant variances. The condition in the order of April 19 relating to overtime work is modified to require such construction work only when the date of completion of the facilities will be advanced by such efforts. GAF shall submit monthly progress reports to the Environmental Protection Agency so that we may have some assurance that work is proceeding apace. Reports shall be filed on the first working day of each month until the work is completed detailing progress to date and fully explaining any deviations from GAF's announced plans.

It is abundantly clear from the present record that the company has made substantial progress and expended considerable effort to make up for several years of inexcusable inaction. The history of this case of delay, study and re-study, alternatives chosen, rejected, then once more looked upon with favor is now happily past. Continuance of the present pace should in the next eight months result in the control of a significant source of Des Plaines River pollution. The company is now seriously engaged in solving its acute pollution problem. We grant the variance to enable GAF to complete the abatement project but we do so with conditions which will assure that the clean-up job proceeds in the most expeditious way.

This opinion constitutes the Board's findings of fact and conclusions of law.

I, Regina E. Ryan, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above Opinion on the 16 day of September, 1971.

