

ILLINOIS POLLUTION CONTROL BOARD
August 24, 1995

AMERICAN RIVER TRANSPORTATION)	
COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 95-147
)	(Variance - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G. T. Girard):

On May 16, 1995, American River Transportation Company (ARTCO) filed a request for variance from the Board's regulations which require that special waste haulers obtain a permit and that special waste be manifested prior to transportation and disposal. (35 Ill. Adm. Code 809.201, 809.301, 809.302, 809.501.) ARTCO seeks a variance to allow ARTCO to haul special waste generated by barge washing at its facility to a disposal point without ARTCO obtaining a permit and without a manifest. ARTCO is seeking a variance until May 15, 1998 for its facility in LaSalle, Illinois.

On June 12, 1995, the Illinois Environmental Protection Agency (Agency) filed its recommendation recommending that the variance be granted with certain conditions. ARTCO filed a response to the Agency recommendation on June 14, 1995, indicating that ARTCO is willing to accept the conditions recommended by the Agency. ARTCO waived hearing and no hearing was held. On August 7, 1995, ARTCO filed a motion for expedited decision. The Board will grant that motion.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (1992).) The Board is charged in the Act with the responsibility of granting variance from Board regulations whenever it is found that compliance with the regulations would impose an arbitrary or unreasonable hardship upon the petitioner. (415 ILCS 5/35(a).) The Agency is required to appear in hearings on variance petitions. (415 ILCS 5/4(f).) The Agency is also charged, among other matters, with the responsibility of investigating each variance petition and making a recommendation to the Board as to the disposition of the petition. (415 ILCS 5/37(a).)

BACKGROUND

ARTCO is a wholly-owned subsidiary of Archer Daniels Midland Company ("ADM"), an international agri-processing company with its corporate world headquarters located in Decatur, Illinois.

(Pet. at 3.)¹ ADM was incorporated in 1923, and originated as a processor of linseed oil and has grown to be one of the world's largest food companies, processing virtually every type of agricultural commodity, according to the petition. (*Id.*) ADM currently employs over 3,000 Illinois residents, 2,600 of whom are located in Decatur, and in fiscal year 1994 generated net earnings of over \$484 million. (*Id.*)

ARTCO owns 26 boats and 1,800 covered barges, the largest covered barge fleet in the United States. (Pet. at 3.) ARTCO employs 833 people, and has 12 locations across the United States, operating 6 facilities on rivers within or bordering Illinois. (*Id.*) The principal administrative offices of ARTCO are located in Decatur, Illinois. ARTCO's activities include moving barges up and down the Mississippi and Ohio Rivers for ADM as well as others, and providing fleet and switching services to customers. (*Id.*)

ARTCO acquired the marine operations at LaSalle, Illinois, in December 1991 from Tabor Grain Co., a grain company acquired by ADM in 1975. (Pet. at 4.) The services provided by ARTCO at LaSalle include fleet (parking of barges on the river), switching (moving barges in and out of the fleet and dock areas), building tows (preparing barges to be moved by a line boat down the river) and barge cleaning and maintenance. (Pet. at 4.) Except for cleaning and maintenance, these are essentially the same services which were provided by Tabor when it controlled the operations, and these services are generally provided in connection with Tabor's business. (*Id.*) Tabor loads out Illinois grain for shipment to ports down river, typically on the Gulf of Mexico, in preparation for export, and receives shipments of fertilizers, coal and salt for storage for independent entities. (*Id.*) ARTCO moves the loaded barges out of the fleet to the Tabor dock for unloading. (*Id.*) The empty barges will be cleaned by ARTCO if the particular barge lessor or owner so requests. (*Id.*) Additionally, ARTCO will move empty barges from the fleet to the Tabor dock to be loaded with grain for outbound shipment. (Pet. at 4.) These barges are typically cleaned prior to arrival in LaSalle, although on occasion grain barges will require cleaning prior to loading. (*Id.*) The only additional services performed by ARTCO in LaSalle, which would not necessarily be connected with the activities of Tabor-LaSalle, is the making and breaking of tows for barges to be moved down or further up the Illinois River. (*Id.*)

ARTCO's facility is located on the I & M canal a short distance upstream of its confluence with the Illinois River.

¹ The petition for variance will be cited as "Pet. at ____"; the motion for expedited decision is cited as "Mot. at ____"; and the Agency recommendation is cited as "Ag. Rec. at ____".

(Pet. at 5.) The facility lies at the center of what is informally known as the LaSalle Harbor which extends for approximately 2.9 miles on the I & M Canal and the Illinois River and which encompasses 7 docks. (*Id.*) The manhole into which ARTCO proposes to discharge is located at about the midpoint of the downstream harbor area. (*Id.*) Surrounding land uses are predominantly industrial and commercial, including a chemical plant, a lumber yard, a publicly owned treatment works (POTW), and a sand and gravel company. (*Id.*) The nearest residential areas are several blocks to the north of ARTCO's facility and approximately three or four blocks from the River. (*Id.*) A limited amount of recreational boating and fishing occurs in this area, but there are no recreational boat access points to the river in that area or any swimming areas. (*Id.*)

ARTCO had formerly followed the historical practices for barge cleaning on the Illinois River which consisted of, after a commodity was unloaded, the barge would be swept clean, river water would be pumped into the barge to remove the residual materials, and that rinse water would then be discharged back into the river. (Pet. at 1.) On April 29, 1994, ARTCO changed its practices such that the rinse waters are now discharged into a holding barge until the rinse waters can be disposed of cost-effectively. (*Id.*) The barge rinse waters are "equipment cleanings" as listed in the definition of "industrial process waste" of the Act at Section 3.17. (Ag. Rec. at 3 citing 415 ILCS 5/3.17; 35 Ill. Adm. Code 809.103.) Therefore, by definition, rinse waters are a special waste and no further showing of potential or actual threat to public health or the environment is necessary. (Ag. Rec. at 4.) Special wastes consist of hazardous wastes, industrial process wastes and pollution control wastes which have not been declassified. (Ag. Rec. at 3 citing 415 ILCS 5/3.45 and 35 Ill. Adm. Code 808.110.)

The Peru Sanitary District is willing to accept the rinse waters at its POTW, and ARTCO has recently been issued a water connection permit by the Agency to connect to the Peru Sanitary District. (Pet. at 1; Mot. at 1.) The Peru Sanitary District has informed ARTCO that it will not accept manifested wastes for treatment. (Pet. at 1.) Since there is presently no sewer line into which ARTCO can discharge directly from its barge cleaning area, the rinse waters will have to be transported approximately one mile by barge to a manhole near the Illinois River. (Pet. at 1-2.) Further, since the rinse waters are characterized as special waste, which must be manifested, some form of regulatory relief will be necessary in order to dispose of these waters as proposed. (Pet. at 2.)

Up to eight hundred barges carrying grain, coal, salt or fertilizer are loaded or unloaded at the LaSalle facility each year. (Pet. at 5.) These barges are loaded and unloaded on the Illinois and Michigan Canal approximately 750 feet upstream of

its confluence with the Illinois River. (*Id.*) Approximately 200 of those barges are cleaned each year, including approximately 60 which had carried salt, 60 which had carried fertilizer, 50 which had carried coal and 30 which had carried grain. (Pet. at 5-6.) Historically prior to cleaning, the barges were taken to a point away from the loading/unloading area and positioned to best avoid interference with fleeting or traffic on the river. (Pet. at 6.) The cleaning operations took place on the Illinois River in an area from immediately upstream of the confluence of the I & M Canal and the Illinois River to slightly more than one mile upstream of that point. (*Id.*) The employees swept out the barge to empty it of all recoverable product and then sprayed the barge with river water to remove any residual product which remained after sweeping. (*Id.*) The spraying operation would take up to one hour and used approximately 5,000 gallons of water. (*Id.*) As a result of these operations, the rinse water, which was then returned to the river, would contain some increased level of coal, salt, fertilizer or grain (depending upon which particular product the barge had contained), but would not contain any other constituents that were not already in the river water; i.e. no solvents or cleaning agents other than river water were used. (*Id.*)

On April 29, 1994, ARTCO was informed that its barge cleaning method was "allegedly contrary to the environmental laws". (Pet. at 6.) ARTCO immediately changed its cleaning operations at the LaSalle facility to ensure that the rinse water was not returned to the river. (*Id.*) ARTCO has now positioned a barge to receive the rinse water near the loading/unloading area, and the barge cleaning takes place adjacent to that receiving barge. (*Id.*) Rather than returning the rinse water to the river, it is now pumped directly to the receiving barge. (*Id.*) ARTCO has also intensified its sweeping efforts to minimize the number of barges rinsed at LaSalle by using only dry sweeping to the extent possible. (*Id.*) It has also minimized the amount of rinse water used to clean those barges. (*Id.*) As a result the spraying operation is now completed in 15 to 20 minutes and only approximately 1,500 gallons of river water are used. (*Id.*)

REGULATORY FRAMEWORK

ARTCO is requesting a variance from the Board's special waste hauling regulations as those regulations relate to manifesting of special waste for transport and disposal. The regulations ARTCO is seeking a variance from are 35 Ill. Adm. Code 809.201, 809.301, 809.302, 809.501. Section 809.201 entitled "Special Waste Hauling Permits - General", provides:

No person shall haul or otherwise transport any special waste generated within Illinois or any special waste to be disposed of, stored or treated within Illinois without a current, valid waste hauling permit issued by the Agency in

accordance with the requirements of this Subpart unless the hauler is exempt from the special waste hauling permit requirements under this Subpart.

Section 809.301 entitled "Requirements for Delivery of Special Waste to Haulers" provides:

No person shall deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste hauler who holds a current, valid special waste hauling permit issued by the Agency under Subpart B of this Part.

Section 809.302 entitled "Requirements for Acceptance of Special Waste from Haulers" provides:

- a) No person shall accept any special waste for disposal, storage or treatment within Illinois from a special waste hauler unless the special waste hauler has a valid special waste hauling permit issued by the Agency under Subpart B of this Part and concurrently presents to the receiver of the special waste, or his agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste.
- b) No person shall deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

Section 809.501 entitled "Manifests, Records, Access to Records, Reporting Requirements and Forms" provides in pertinent part:

- a) Any person who delivers special waste to a permitted special waste hauler shall complete a manifest to accompany the special waste from delivery to the destination of the special waste. The manifest which shall be provided or prescribed by the Agency shall, as a minimum, contain the name of the generator of the special waste; when and where generated; name of the person from whom delivery is accepted and the name of the site from which delivered; the name of the special waste hauler; the date of delivery; the final disposal, storage or treatment site; and the name, classification and quantity of the special waste delivered to the

hauler. The Agency may provide or prescribe a different form of manifest for Class A special wastes than for Class B special wastes.

* * *

In determining whether any variance is to be granted, the Act requires the Board to determine whether a petitioner has presented adequate proof that immediate compliance with the Board regulations at issue would impose an arbitrary or unreasonable hardship. (415 ILCS 5/35(a)(1992)) Furthermore, the burden is upon the petitioner to show that its claimed hardship outweighs the public interest in attaining compliance with regulations designed to protect the public. (Willowbrook Motel v. Pollution Control Board, (1985), 135 Ill. App.3d 343, 481 N.E.2d 1032.) Only with such a showing can the claimed hardship rise to the level of arbitrary or unreasonable hardship.

A further feature of a variance is that it is, by its nature, a temporary reprieve from compliance with the Board's regulations, and compliance is to be sought regardless of the hardship which the task of eventual compliance presents an individual polluter. (Monsanto Co. v. IPCB, (1977), 67 Ill.2d 276, 367 N.E.2d 684.) Accordingly, except in certain special circumstances, a variance petitioner is required, as a condition to grant of variance, to commit to a plan which is reasonably calculated to achieve compliance within the term of the variance.

COMPLIANCE PLAN

The materials discharged historically during barge rinsing consisted of Illinois River water containing residual amounts of coal dust, grain, salt and fertilizer. (Pet. at 7.) ARTCO estimates that the LaSalle/Peru barge cleaning operation resulted in the discharge of less than 1,000 pounds of salt, less than 1,000 pounds of fertilizer, less than 750 pounds of coal and less than 500 pounds of grain to the Illinois River in 1993. (*Id.*)

ARTCO's proposed compliance plan consists of three phases. (Pet. at 8.) During Phase I ARTCO will investigate whether economically reasonable compliance options exist. (*Id.*) During Phase II ARTCO will implement the most cost-effective of those options, if such an option is available. (*Id.*) If not, during Phase II ARTCO will seek an adjusted standard. (*Id.*) The requested variance will terminate at the end of Phase II unless no economically reasonable compliance option is identified and ARTCO is denied an adjusted standard. (Pet. at 8.) In that case, during Phase III, ARTCO will arrange for disposal of the accumulated rinse waters in compliance with the law. (*Id.*)

ARTCO has been investigating various compliance options ever since it ceased discharging its barge rinse waters to the

Illinois River. These options include: ceasing the generation of rinse waters, constructing an on-site treatment facility, arranging to have the rinse waters picked up by trucks and taken to an appropriate treatment facility, taking the rinse waters by barge to an appropriate treatment facility, and constructing a sewer line for treatment at the Peru Sanitary District's POTW. (*Id.*) ARTCO has determined that transporting the rinse waters by barge to a POTW would be the most cost-effective option, at least for the short-term, and this variance is requested to allow ARTCO to proceed in that manner. (*Id.*)

During Phase I of its compliance plan ARTCO proposes to continue to investigate the costs and feasibility of obtaining an NPDES permit for the direct discharge of the rinse waters to the Illinois River (after using a vacuuming system with or without some form of treatment) as well as the construction of a sewer line to discharge directly to the Peru Sanitary District. ARTCO anticipates completing these efforts within one year. (Pet. at 8.) If either or both options prove feasible and economically reasonable, ARTCO would implement one of those options within an additional year. (*Id.*) If not, ARTCO would petition the Board for an adjusted standard and would seek a Board decision within 18 months. (*Id.*) Should such relief be denied, ARTCO would immediately begin making arrangements to have its rinse waters picked up by a licensed special waste hauler and disposed of at a permitted facility.

The Board has in some cases held that reliance upon an adjusted standard as a compliance plan is overly speculative unless the petition for the adjusted standard is filed on or before the date of filing the petition for variance. (Pet. at 9.) However, in this case it is possible that compliance can be reasonably achieved through construction of a direct discharge sewer or through obtaining an NPDES permit to discharge the rinse waters to the river without the need for an adjusted standard. (*Id.*) As the Board stated in dicta in the City of Sycamore v. IEPA (PCB 83-172 (July 11, 1984)), "in specific instances, where there is no apparent solution to the problem, compliance plans may include time for research leading to an ultimate but as yet unidentified resolution." (*Id.*)

The Agency agrees that the compliance plan set out by ARTCO is acceptable. (Ag. Rec. at 5.) The Agency cites to Olin Corporation v. IEPA, (PCB 92-172 (December 3, 1992)) for the proposition that a petitioner can propose a compliance plan which has several alternative compliance options, including that of an adjusted standard. (*Id.*)

HARDSHIP

In investigating each of the compliance options, ARTCO and determined that the most cost-effective option, at least for the

short term, was to barge the rinse waters to a POTW. (Pet. at 12.) ARTCO, therefore, contacted the sanitary districts of LaSalle and Peru since the facility is located at the dividing line of those municipalities. (*Id.*) LaSalle would not accept the rinse waters so ARTCO pursued obtaining such authorization from the Peru Sanitary District. (*Id.*) In order to proceed in that manner first requires approval of the POTW and then a permit to connect to the sewer from the Agency. (*Id.*) To accomplish that, ARTCO was required to perform sampling and testing of the rinse water resulting from the cleaning of barges which had carried various commodities in order to complete an application to be submitted to the POTW. (*Id.*) ARTCO completed all of the required testing and submitted an application to the Peru Sanitary District, which requested certain additional information. (*Id.*) That information was supplied, and the Peru Sanitary District informed ARTCO of its approval by signing Section 7.5 of ARTCO's application to the Agency for a connection permit and by issuing ARTCO a discharge permit dated March 1, 1995. (*Id.*)² However, the Peru Sanitary District indicated that it would be unable to accept the barge rinse waters if those waters were required to be manifested as special wastes. (Pet. at 12-13.)

Ever since ARTCO began accumulating the rinse waters, it has also been investigating whether the water rinse method of barge cleaning could be replaced with a vacuuming system which would not generate such waters. (Pet. at 13.) ARTCO contacted various vendors who might have the appropriate equipment, but was unsuccessful. (*Id.*) ARTCO, therefore, designed its own system and ordered parts to fabricate it. (*Id.*) ARTCO built such a unit at its St. Louis facility and has begun testing it. (*Id.*) Generally, the unit has performed quite well, and ARTCO is optimistic that it can greatly reduce the number of barges which must be rinsed. (*Id.*) However, the unit is expensive (\$40,750, not including the cost of fabrication and the lost use of the housing barge for commerce) and it leaves a residue which will still require washing when the barge is used to carry certain commodities. (*Id.*)

Building an on-site treatment facility is probably not technologically feasible and is certainly not economically reasonable. (Pet. at 14.) The rinse waters are generated intermittently and have been averaging less than 1,000 gallons per day since ARTCO began accumulating them. (*Id.*) Consistent treatment for ammonia, BOD₅ and suspended solids is difficult, if not impossible to achieve under those circumstances using conventional treatment. (*Id.*) Further, effective treatment of

² The Agency issued the connection permit on July 26, 1995. (Mot. at 1.)

TDS and chlorides is quite costly, especially in light of the small flows.

It is possible, however, that use of the vacuuming system will reduce the levels of the rinse water constituents sufficiently to allow them to be discharged directly back to the Illinois River without causing effluent or water quality violations, especially if some sort of in-line filter is used. (Pet. at 14.) In order to evaluate that option, ARTCO will be required to first analyze the concentrations of the contaminants of concern for various commodities following vacuuming and rinsing, determine acceptable mixing zones and zones of initial dilution, determine whether the resultant dilutions would result in compliance with applicable regulations and, if not, evaluate potential in-line treatment. (*Id.*) Then, if such disposal promises to be technologically feasible and economically reasonable, a construction permit would have to be obtained as well as an NPDES permit. (*Id.*) This process could probably be completed within 6 to 12 months.

ARTCO has also been investigating the cost and feasibility of building a sewer line to connect directly to the manhole into which it proposes to discharge. (Pet. at 14.) Such discharge is permissible without Part 807 permits or manifests. (*Id.*) In fact, the Tabor Grain facility at Havana has recently obtained the necessary approvals to commence discharging similar rinse waters to the sanitary district there. (*Id.*) At the LaSalle/Peru facility, however, such a sewer would have to be approximately 3,000 feet long and would have to be constructed under a railroad right-of-way and a chemical plant site. (*Id.*) It would, of course, be necessary to obtain construction and operating permits from the Agency, easements from the property owners and local building permits, among other things. (*Id.*) Ignoring the costs for such work and engineering, and assuming that no impediments to construction arise, this work could also probably be completed within 6 to 12 months at a construction cost of approximately \$105,000.

ARTCO could also arrange to have the rinse waters picked up by a licensed special waste hauler and disposed of at a properly permitted facility. (Pet. at 15.) However, ARTCO has estimated that the cost to do so would be approximately \$0.35 per gallon for the rinse waters which have already been accumulated and \$105,000 per year thereafter.

In addition to the compliance alternatives presented above, it might be possible for ARTCO to locate some other POTW which would be willing and able to accept the manifested wastewaters. However, based upon ARTCO's initial efforts in that regard (the sanitary districts of LaSalle and Peoria refused) and the general reluctance of sanitary districts to accept manifested wastewaters or wastewaters generated outside of their districts, it does not

appear that a nearby site would be available. (Pet. at 15.) This is especially true due to the small profit margin for treating highly diluted waste waters, making it not worth the effort in most cases to go through all of the required procedures. (*Id.*) Further, hauling, the rinse waters long distances greatly increases the disposal costs, and whatever minimal risk may potentially exist from the barging would increase as the distance increases. (*Id.*) Finally, for over a year ARTCO has been working with the Agency for the issuance of a permit allowing connection to Peru Sanitary District. (Pet. at 15; Mot. at 1..) ARTCO has had to:

1. Test sample rinse waters from barges carrying various loads;
2. Identify a sanitary district which is willing to consider accepting the rinse waters and which has a manhole close enough to a river in an area where a barge could discharge;
3. Negotiate the rate which would be charged for treatment of the rinse waters;
4. Develop a mutually acceptable plan for insuring ARTCO access to the sewer while maintaining the security of that sewer;
5. Obtain the Peru Sanitary District's approval to accept the rinse waters; and
6. Apply for and obtain an Agency permit to connect to the Peru Sanitary District's system.

ARTCO has been accumulating rinse waters for more than a year now without any economically reasonable method of disposal, and no such means of disposal can be expected in the near future. (Pet. at 16-17.) Yet, ARTCO is close to having the necessary water permits and approvals to barge these rinse waters approximately one mile to be appropriately treated and discharged in accordance with the Peru Sanitary District's NPDES permit without any adverse environmental impact. (Pet. at 17.) At other ARTCO facilities which discharge their barge cleaning waters directly to sewer lines the total cost of disposal averages \$50 per barge cleaned. (*Id.*) The only means of near term compliance would be to arrange for trucking the waters to an approved disposal facility (which generally would consist of discharging to a sanitary sewer) at a cost of approximately \$525 per barge with approximately 200 barges being washed per year, the cost differential would be \$105,000 less \$10,000, or \$95,000 per year without any corresponding environmental benefit. (*Id.*)

The Agency states that it "accepts" ARTCO's assertion that "the difference in cost between barging and the use of a land based hauler would be approximately \$95,000 per year". (Ag. Rec. at 5.) The Agency further states that it "accepts" that ARTCO would incur a hardship that justifies the granting of the requested variance. (Ag. Rec. at 4.)

ENVIRONMENTAL IMPACT

The granting of the requested relief should have no adverse impact upon the environment. ARTCO proposes simply to transport its rinse waters containing residual salt, fertilizer, coal or grain by barge a distance of approximately one mile within the LaSalle Harbor without the need for special waste manifests or permits. (Pet. at 9.) The barges which ARTCO proposes to use are the same barges in which commodities are shipped to and from the facility, the only differences being that the commodities will be barged a much shorter distance, and they will be in a highly diluted form. (*Id.*) The rinse waters would then be discharged to a manhole which is tributary to the Peru Sanitary District's POTW and which is capable of accepting those rinse waters while continuing to meet applicable discharge limits. (Pet. at 9-10.)

The Agency states that "because this variance only addresses the Petitioner's activities since it ceased discharging the rinse waters into the Illinois River" there is no environmental impact. (Ag. Rec. at 5.) In fact the Agency states that "there is no relevant discharge of contaminants into the environment to consider, other than the permitted discharge to the sewer system". (*Id.*)

CONSISTENCY WITH FEDERAL LAW

ARTCO and the Agency agree that the requested relief is consistent with federal law. (Pet. at 18; Rec. at 6.) ARTCO states that there is no federal regulation applicable to barge rinse waters and therefore only Illinois "criteria for granting or denying a variance are relevant". (*Id.*)

CONCLUSION

Based on the record the Board finds that ARTCO has established that compliance with 35 Ill. Adm. Code 809.201, 809.301, 809.302, 809.501 constitutes an arbitrary or unreasonable hardship. ARTCO has shown that alternative methods of compliance with the special waste hauling requirements are less cost-efficient.

The Board finds that temporary relief which is granted by this variance does not pose a significant risk to environmental health. ARTCO will be the generator and hauler of the special

waste (barge rinse water) which will be discharged into Peru Sanitary District sewer treatment system. ARTCO will examine several specific compliance alternatives and should be in compliance with all Board regulations when the terms of this variance expire on May 15, 1998. The Board will grant the variance with the conditions recommended by the Agency.

This opinion constitutes the Board findings of fact and conclusions of law in this matter

ORDER

The Board hereby grants the American River Transportation Company a variance from the special waste hauling regulations as set out at 35 Ill. Adm. Code 809.201; 35 Ill. Adm. Code 809.301; 35 Ill. Adm. Code 809.302; and, 35 Ill. Adm. Code 809.501 for the handling of barge rinse waters at its LaSalle, Illinois facility. This variance becomes effective on the date of this final order and terminates on May 15, 1998. The variance is subject to the following conditions:

1. The rinse water is transported and discharged only to the Peru Sanitary District so long as the Peru Sanitary District shall possess and maintain all necessary permits, except as authorized by the terms of this variance, in order to accept this waste;
2. Petitioner shall submit status reports to the Agency regarding its compliance efforts within fourteen days of the ending date of each of the phases of the Petitioner's compliance plan as set out in Section F of the petition for variance;
3. The Petitioner shall notify the Board and the Agency in the event that the Petitioner implements one of the compliance options as set out in the compliance plan prior to the expiration of the variance and this variance shall terminate upon the implementation of the compliance option;
4. The Petitioner shall maintain logs of the transportation and discharge of the rinse waters documenting the dates and amounts discharged to the Peru Sanitary District. The petitioner shall submit on an annual basis reports to the Agency showing the quantity of rinse waters discharged;
5. Petitioner shall procure a permit allowing it to connect and discharge the rinse waters to the Peru Sanitary District pursuant to 35 Ill. Adm. Code Part 309 and all other necessary permits, except as authorized by the terms of this variance,;

6. Petitioner shall comply with all terms and conditions of its connection and discharge permits for the rinse waters during the term of the variance.
7. Petitioner shall allow representatives of the Agency upon presentation of credentials access to its operations at reasonable times for the purposes of conducting inspections of its facility and examination of records required under the conditions of the variance.

IT IS SO ORDERED.

If the petitioner chooses to accept this variance subject to the above order, within forty-five days of the grant of the variance, the petitioner must execute and forward the attached certificate of acceptance and agreement to:

Christopher P. Perzan
Division of Legal Counsel
Illinois Environmental Protection Agency
P. O. Box 19276
2200 Churchill Road
Springfield, IL 62794-9276

Once executed and received, that certificate of acceptance and agreement shall bind the petitioner to all terms and conditions of the granted variance. The 45-day period shall be held in abeyance during any period that this matter is appealed. Failure to execute and forward the certificate within 45-days renders this variance void. The form of certificate is as follows:

CERTIFICATION

I (we), _____, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 95-147, August 24, 1995.

Petitioner _____

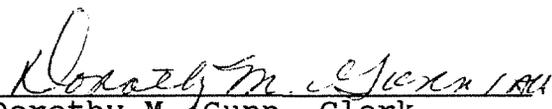
Authorized Agent _____

Title _____

Date _____

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2 par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 24th day of August, 1995, by a vote of 2-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board