ILLINOIS POLLUTION CONTROL BOARD October 14, 1971

CHICAGO-DUBUQU	E FOUNDRY	CORP.)		
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ENVIRONMENTAL	PROTECTION	AGENCY)		

Opinion and Order of the Board (by Mr. Currie):

Chicago-Dubuque filed a variance petition May 27, 1971, which we dismissed as inadequate, partly because it did not contain any program for achieving compliance. Chicago-Dubuque Foundry Co. v. EPA, # 71-130 (June 28, 1971). The company filed a new petition in August, stating with accompanying documents that it had ordered a baghouse, hired a contractor to install it, applied for a permit, and begun final engineering, with compliance expected in 38 weeks or less after the issuance of a permit. The Agency's recommendation, received October 12, does not say whether or not the permit has been granted but implies that the installation will be adequate by asking that we grant the variance on certain conditions for a period of seven months from the date of the recommendation, that is, until May 12, 1972, which is about the same date suggested by the company on the assumption the permit was quickly granted.

Ideally we should prefer to have more facts as to the relative hardships to the company if forced to close and to the community if the variance is granted before taking action. But two months have passed with no hearing scheduled, and time forbids our holding a hearing and studying a transcript within the tight 90-day period in which the statute requires we make a final decision. Since both parties agree that there should be a grant rather than a shutdown, we will grant the variance for seven months on several conditions as suggested by the Agency.

One of the Agency's most critical recommendations is that the variance should be conditioned upon the payment of a money penalty for delays that are alleged in some detail in bringing the facility into compliance and for failure to adhere to its earlier program as approved in 1968. In past cases we have imposed such conditions, e.g., Marquette Cement Co. v. EPA, # 70-23 (Jan. 6, 1971). In the present case time does not permit postponing resolution of the variance case pending a hearing on the Agency's allegations, and the company is entitled to a hearing. We therefore construe the recommendation as a complaint charging violations and asking money penalties and authorize a hearing to be held on that complaint. The variance granted today shields the company from prosecution for operation in accord with its terms during the next seven months, but it

is not to be read as excusing any past violations that may have occurred.

ORDER

- 1. Chicago-Dubuque Foundry Corp. is hereby granted a variance to operate its cupola in excess of the particulate emission limits until May 12, 1972, subject to the following conditions:
 - a. The company shall proceed with its purchase and installation of the control equipment as set out in its Amended Petition for Variance and shall obtain all necessary permits without delay.
 - b. The company shall file a complete assessment of emissions from its core ovens and shakeout area with the Agency within two months after receipt of this order, and, if such assessment indicates a need for reduction of emissions, shall by the same date file with the Agency and the Board a firm program for achieving such reduction;
 - c. The company shall within 35 days after receipt of this order post with the Agency a bond or other security in the amount of \$50,000 to assure prompt compliance with the conditions of this order;
 - d. The company shall file monthly progress reports with the Agency;
 - e. Failure to adhere to the conditions of this order shall be grounds for revocation of the variance.
- 2. A hearing is hereby authorized upon the Agency's countercomplaint for money penalties for violations prior to August, 1971. Nothing in paragraph 1 of this order shall be construed to excuse any such earlier violations.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order of the Board this 14 day of October , 1971