

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

IN THE MATTER OF:)
)
PETITION OF CABOT CORPORATION) AS 91-10
FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard)
THE REQUIREMENT OF 35 ILL. ADM.)
CODE SECTION 725.293)

ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon two motions filed on April 18, 1994 by Cabot Corporation (Cabot). The first is a motion to file status report instanter. The second is a motion for summary determination.

On January 6, 1994, the Board ordered the parties to file status reports on or before January 31, 1994. Cabot states that its counsel did not receive a copy of the Board's order until March 1, 1994. No response to the motion to file instanter has been received by the Board. The Board grants the motion to file instanter and hereby accepts the status report.

In its motion for summary determination Cabot asks the Board to determine whether the tanks and ancillary equipment at its Tuscola, Illinois, facility comprise one tank system or separate tank systems. No response to the motion for summary determination has been received by the Board. The Board grants the motion for summary determination as discussed below.

On December 27, 1991, Cabot submitted to the Board a petition for adjusted standard pursuant to 35 Ill. Adm. Code 104.414 and 725.293(g). The petition requested an adjusted standard from the requirement that Cabot's Tuscola facility install secondary containment for its hazardous waste tanks and ancillary equipment. Cabot has agreed to install secondary containment for tank systems by the dates it believes secondary containment is required by the regulations. This matter and the pending RCRA Part B Post-Closure Permit matter are related. (See, Cabot Corporation (Tuscola Facility) v. IEPA, PCB 91-197)

One issue that is not dependent on resolution of issues in the RCRA permit proceeding is the issue of whether the tanks and ancillary equipment at the Tuscola Facility comprise one tank system or separate tank systems. Cabot has previously agreed to voluntarily dismiss this matter as long as the one tank system/separate tank system issue is resolved. In previous orders the Board did not decide whether the units consisted of one tank system or separate tank systems.

Cabot presents that the Agency now agrees with Cabot that separate tank systems exist at the Tuscola site. An August 1992

technical document attached to the Agency's response to petitioner's demonstration states that the "[Agency] agreed that the designation of four (4) separate tank systems would be appropriate based upon the description provided of the design and function of the various tanks, pipes, trenches, and sumps. Subsequent reports submitted on May 7, 1992 and June 12, 1992, provided detailed documentation of each system. (Note: this resolved the issue discussed in the [Agency's] comments to the Board regarding tank system definition." (Agency Comments on Demonstration at 2.) Cabot has asked the Agency to clarify this issue before the Board but Cabot has received no response.

At 35 Ill. Adm. Code 720.110 the term "tank system" is defined as:

[A] hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

Also at 35 Ill. Adm. Code 720.110, the term "tank" is defined as:

[A] stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

Again at 35 Ill. Adm Code 720.110 the term "ancillary equipment" is defined as:

[A]ny device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

Cabot further states that the five tanks at the Tuscola facility were installed at separate times and serve separate purposes. The piping and other ancillary equipment were installed at the same time the tanks were installed. The equipment is also constructed of different materials and has different uses that Cabot believes requires treating each tank and associated ancillary equipment as separate "tank systems".

The Board finds that no issues of material fact remain as to the issue of whether separate tank systems exist at Cabot's Tuscola facility. Cabot has shown that separate tank systems exist at the Tuscola facility for which the compliance dates, and the dates by which a petition and complete demonstration must be

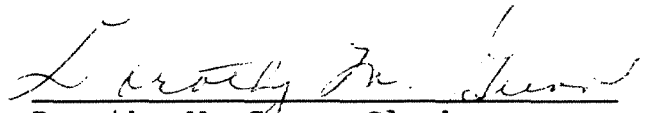
filed, are the dates set forth in the Board's January 6, 1994 order and are the same as follows:

Unit (Viewed Separately)	Applicable Deadline		
	Compliance	Petition Filing	Completed Demonstration
North Galigher Sump	1-1-94	1-1-92	6-28-92
West Galigher Sump	1-1-95	1-1-93	6-29-93
AB Unit Trench	1-1-98	1-1-96	6-28-96
Tank Farm Sump	7-1-99	7-1-97	12-27-97
D Unit Trench	8-1-99	8-1-97	1-27-98
TK-0048 & TK-0051	5-1-02	5-1-00	10-27-00

Cabot's motion for summary judgment on the issue of whether there are separate tank systems at its Tuscola facility is hereby granted. The parties shall file status reports on or before June 22, 1994 including how they want to proceed in light of today's action, also indicating whether this proceeding should now be dismissed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of May, 1994 by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board