

1 ILLINOIS POLLUTION CONTROL BOARD
2 THE D.B. HESS COMPANY, INC.,)
3) PCB NO. 96-194
4 Petitioner,)
5) McHenry County
6 v.) Courthouse
7)
8 ILLINOIS ENVIRONMENTAL) Woodstock, Illinois
9 PROTECTION AGENCY,)
10) January 23, 1997
11 Respondent.)

Hearing commenced at 11:27 a.m.

BEFORE:

9
10 DEBORAH L. FRANK, Hearing Officer,
11 Illinois Pollution Control Board,
12 608 South Prospect Avenue,
13 Champaign, Illinois, 61820

APPEARANCES:

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17 Counsel for D.B. Hess
18 Company, Inc.

17 ATTORNEY CHRISTINA L. ARCHER,
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22 Counsel for Illinois EPA.

REPORTER:

21 Carrie L. Vaske,
22 Certified Shorthand Reporter,
23 Ashton, Illinois

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1 MS. FRANK: Welcome, everybody, to the hearing
2 in D.B. Hess Company versus Environmental
3 Protection Agency. This is an air variance case.
4 The number is PCB 96-194 and at this time there are
5 no members of the public present. Everybody here
6 is connected with the case.

7 Are there -- well, first why don't you go
8 ahead and make your appearances on the record.

9 MR. ANAYA: My name is William Anaya,
10 A-n-a-y-a. I'm Counsel for D.B. Hess Company.

11 MS. ARCHER: I'm Christina Archer. I represent
12 the Respondent, Illinois Environmental Protection
13 Agency.

14 MS. FRANK: Okay. Are there any preliminary
15 matters that we need to discuss before we begin?

16 MR. ANAYA: Yes, Hearing Officer. One of the
17 things that Counsel for the agency and I discussed
18 we would do early, our petition, we ask for a
19 variance from Sections 9A and 9B of the Act and we
20 also asked for a variance from Section 208.141, as
21 I recall.

22 MS. ARCHER: 201.141.

23 MR. ANAYA: 201.141. At this point, Miss
24 Hearing Officer, we'd move to dismiss those prayers

1 for relief under those two sections and proceed
2 with the remainder of the petition.

3 MS. FRANK: Okay. I assume there's no
4 objection.

5 MS. ARCHER: No objection from the Agency.

6 MS. FRANK: Then those sections are considered
7 dismissed and won't be considered by the Board and
8 you won't need to put any evidence on in support of
9 them.

10 Are there any other preliminary matters?

11 MR. ANAYA: No, Your Honor.

12 MS. ARCHER: No.

13 MS. FRANK: Okay. How do you want to proceed?

14 Are you going to have kind of a panel or are you
15 going to do one witness at a time?

16 MR. ANAYA: I had prepared, Your Honor, one
17 witness at a time very quickly.

18 MS. FRANK: Okay. Why don't you go ahead then
19 and introduce on the record the witnesses that
20 you're going to be calling.

21 MR. ANAYA: Okay. Our witnesses will be
22 Mr. Ralph Frank, he's at the far end of the table
23 here. He's vice president of manufacturing at D.B.
24 Hess. Mr. Richard J. Trzupsek to his immediate

1 left. He's our air consultant with Air Solutions,
2 and Mr. Steve Paddock, he's also associated with
3 D.B. Hess. Those are my three witnesses.

4 MS. FRANK: And for the Agency?

5 MS. ARCHER: For the Agency I have Mr. David
6 Bloomberg with the air quality planning section.
7 Mr. Nick Relwani, R-e-l-w-a-n-i, from our field
8 operations section, and Mr. Gaffar, G-a-f-f-a-r,
9 Khan, K-h-a-n, also from our field operations
10 section.

11 MS. FRANK: Okay. Do you have an opening
12 statement, Mr. Anaya?

13 MR. ANAYA: Your Honor, I have no objection to
14 moving right on to the testimony but we could give
15 a real quick one. I could give one very quickly.

16 MS. ARCHER: I have a short opening prepared.

17 MS. FRANK: That's fine.

18 MR. ANAYA: At this point we're here today on
19 an air variance as you've indicated, Hearing
20 Officer. D.B. Hess is a lithographic printer of
21 school books and related school book materials.
22 We're seeking a variance pursuant to 35 Illinois
23 Administrative Code part 218 of the so-called
24 lithography rule, specifically 218.407 (a)(1)(c),

1 (d) and (e) and 35 Illinois Administrative Code
2 218.411 (b)(1), (2) and (3).

3 We have five heatset webset offset
4 lithographic presses, two of which are in complete
5 control, three of which require a variance. The
6 evidence today will show that Presses 1 and 2 for
7 ease of description are in control. Presses 3, 4
8 and 5 are the ones that we're seeking the variance
9 on. In all other respects, D.B. Hess has been and
10 will continue to be in compliance with all the
11 applicable air regulations.

12 The grounds for our request for the
13 variance are that the costs of control are
14 arbitrary and create an unreasonable hardship.
15 Specifically we would suggest that the presses are
16 at the end of their useful lives and new or used
17 control equipment would be an unusual and
18 unreasonable expense to burden.

19 We've agreed to a three-year term period
20 with which we've been in consultation with the
21 Agency and come up with a negotiated variance
22 compliance plan and compliance schedule. We will
23 have these presses either patrolled or out of
24 service within three years.

1 Other measures have been evaluated and
2 they don't apply. This is a very peculiar industry
3 in the sense that heat is an ingredient so cold the
4 processes don't work for control and the other
5 carbon absorption type of processes aren't
6 effective either. The only thing that's effective
7 and in effect is afterburner and afterburner is not
8 as great an expense in our opinion.

9 We would suggest that the Agency's
10 recommendation will have testimony on Pages 13, 14
11 and 15, that we would comply with their
12 recommendations and that we consider the terms fair
13 and reasonable in light of the hardship that we
14 believe that the new lithography rule poses on D.B.
15 Hess. For the record, the parties have agreed to
16 two minor amendments to that compliance schedule.
17 On Page 13, Subparagraph 5, the parties agreed to
18 substitute six months for one year on Line 3, and
19 on Page 13 of the Agency's recommendation,
20 Paragraph 45, the parties agreed to strike or
21 retrofit in Line 1.

22 Given the Agency's recommendation, we've
23 already withdrawn our request for a variance
24 pursuant to Sections 9A and 9B of the Illinois Act

1 and 201.141 of the Illinois Administrative Code.
2 The evidence will show, Hearing Officer, that
3 Petitioner is entitled to a variance with 202, 415
4 ILCS 535-538. Thank you.

5 MS. FRANK: Thank you. Okay. Miss Archer.

6 MS. ARCHER: Without repeating Mr. Anaya or
7 what's in the variance petition and recommendation,
8 the Illinois EPA believes that pursuant to Section
9 104, 108 of the Board's procedural rules it has the
10 duty to investigate and make recommendations on
11 variance petitions. It did so in this matter and
12 Illinois EPA believes that the granting of this
13 variance petition until March 30th of 1999 would
14 have a minimal environment impact, that the
15 hardship would outweigh the cost of compliance and
16 would be arbitrary and unreasonable, that the
17 variance will be consistent with federal law and
18 that the compliance plan and schedule in this
19 matter is concrete and has specific milestones.

20 I would also like to point out on Page 15
21 of Illinois EPA's recommendation, Paragraph -- I'm
22 sorry, Page 16, Paragraph 47, also strike or
23 retrofitted with control equipment from that
24 compliance schedule.

1 MR. ANAYA: Okay.

2 MS. ARCHER: And also on Page 49, that the
3 certificate of acceptance be forwarded to myself,
4 Christina Archer, instead of Sheila Kolbe. Thank
5 you.

6 MS. FRANK: Okay. Mr. Anaya, please go ahead
7 with any witnesses.

8 MR. ANAYA: We'd call Mr. Ralph G. Frank.

9 RALPH G. FRANK,

10 being first duly sworn, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ANAYA:

14 Q. Mr. Frank, would you state your name, please.

15 A. My name is Ralph Frank.

16 Q. And where do you live, sir?

17 A. I live at 220 Whitaker Court, Woodstock.

18 Q. Where are you employed?

19 A. I'm employed at D.B. Hess Company.

20 Q. And what is your position there?

21 A. I've been there for 18 years. My position is
22 vice president of manufacturing. I've been there
23 since the conception of the company.

24 Q. You're -- how many employees work at D.B. Hess

1 Company?

2 A. We started our company in '79 with 35
3 employees. Today we have 193.

4 Q. Do you consider D.B. Hess to be a good neighbor
5 and responsible corporate citizen of Woodstock?

6 A. Absolutely, and I don't consider today that --
7 as the EPA as my adversary in any way and I think
8 it's a wonderful opportunity to show what business
9 and government can do together in working together,
10 and I think if you -- I asked when they shortened
11 the proceedings here that I could at least tell you
12 about our company and I'd really like to tell the
13 people about D.B. Hess Company, and I think after I
14 tell you about it and personal situations that
15 we'll all feel good that we're trying to achieve
16 the same goals and it's a better environment and
17 people working.

18 Q. Go ahead.

19 A. D.B. Hess started -- well, we've put together a
20 handout for you and it basically says on the first
21 page, ISO 9000 (sic), quality models attitude. And
22 that's the way we built our company. We started in
23 '79 with 35 employees, and first thing happened,
24 in spring came high school graduation and we didn't

1 have a single high school person come over and
2 apply for a job.

3 So myself and other -- and Mr. Hess
4 thought -- we met with the school officials and
5 find (sic) out, you know, what was the Woodstock
6 graphic arts program. Between the four grades they
7 had 15 students. At that time we took upon
8 ourselves to partnership with the high school. We
9 gave them money. We sent over supervisors. We
10 bought equipment. We have partnered with them on
11 their entire graphic arts program. Today they have
12 120 students.

13 Each year since our company has started
14 we've given scholarships to graphic arts students.
15 We've been active in the co-op program. We have
16 many employees and supervisors that came out of the
17 co-op program. And in 1993 unbeknownst to us
18 District 200 put D.B. Hess Company up for national
19 awards and we were at one of the seven regional
20 national finals in the United States for our
21 support in the educational system.

22 Q. Mr. Frank, that's -- we're pointing there to
23 the Petitioner's Exhibit No. 1?

24 A. Yes.

1 Q. Second page?

2 A. Yes, it's second page. Previous winners of the
3 award have been people like Delta Air Lines and
4 Hyatt Hotels. We competed on a very tough level.
5 It was sponsored by both Kraft Food and Walt Disney
6 World. We could have been resubmitted a second
7 year and we asked not to be resubmitted.

8 1993 Woodstock School System, the high
9 school system who we partnered with, started a
10 recycling program. 1994 there was no market for
11 this graph recycled paper. I got a call from the
12 principal who said we're going to have to
13 discontinue our recycling program. D.B. Hess
14 picked up and recycled the paper for the entire
15 school year. We thought it would be a real downer
16 for the students who eagerly joined in the
17 program.

18 September 1996, Thursday, four days before
19 school opened this year, we got a call from the
20 school district, their graphic arts teacher had
21 quit and taken a position in Milwaukee. We
22 supplied a certified teacher from our staff who is
23 also one of our first scholarship students. Our
24 scholarship -- is one of our first scholarship

1 students. She taught class for two weeks.
2 Mr. Paddock assisted one day. I assisted four
3 days. We handled all the graphic arts courses and
4 one drafting class for two weeks until they could
5 find a replacement teacher.

6 Back in '82 we got together, myself and
7 another person from Claussen Pickle, got together
8 with the city officials, the city manager. City
9 supplied one person. We put together all the
10 principals from the high schools and the grade
11 schools in Woodstock and we started up what we call
12 the WACEP Committee. It's the Woodstock Area
13 Community Educational Partnership. We donated
14 employees along with Claussen to go into the
15 schools that would teach Hispanic students how to
16 learn English. We gave supplies. We created
17 videos on how to -- for the senior class, how to
18 fill out a job application, take an interview, how
19 to apply for jobs, what to say, what not to say.

20 We also worked with the city out on 47
21 when you came along and hit the stop sign there.
22 The city nor the state had the money for the survey
23 so D.B. Hess Company along with other businesses on
24 McConnell Road met and donated the money and

1 secured the monies so that the survey could be
2 done. The temporary signals are up now and final
3 ones should be up this summer.

4 Woodstock Area Chamber of Commerce --
5 these are all in your book if you want to read them
6 there. The Woodstock Chamber of Commerce this year
7 for the first time ever presented a company of the
8 year award of all the businesses in the Woodstock
9 area. We were one of the four finalists. We
10 didn't win it, maybe next year.

11 The City of Woodstock, the Illinois EPA
12 and the US EPA are working together to correct a
13 Superfund site on Highway 47. Matter of fact, if
14 you looked at the board when you came in today you
15 saw there was another EPA hearing. That was for
16 the City of Woodstock and the US EPA. The judge
17 postponed it for six months; however, because of
18 the cleanup and the need for clean fill, D.B. Hess
19 Company volunteered and have set aside 100,000
20 cubic yards of clean fill to the City of Woodstock
21 at no charge. The value on that's \$640,000.

22 Now, you see, we don't get any charitable
23 contributions. We're an S company. We cannot
24 deduct anything that we give here. Everything that

1 we have done in complying and helping the city has
2 been upon us. We feel that we need the
3 partnership. We don't feel that you're our foe.
4 We feel our goals are the same and that.

5 I want to talk a little about what D.B.
6 Hess did about the environment. Long before the
7 EPA ever recommended removing isopropyl alcohol,
8 D.B. Hess did it. At least two, three years before
9 the regulations we took it out of all the offset
10 and heatset printing processes. We replaced it
11 with Genesis which we think is about as friendly as
12 you can get to the environment, and we took on an
13 extra 2 percent spoilage for the year just to teach
14 the press crews how to run without alcohol and with
15 a different fountain solution.

16 The purpose of fountain solution is to
17 reduce -- it's to make water wet and reduce the
18 tension of the water when it flows over the
19 plates. We've reduced our blanket wash under this
20 agreement from 100 percent VOCs to 30 percent
21 VOCs.

22 Some people at EPA, and I think, Nick, you
23 might have been one of them, Duplex (sic) Company
24 had came out with a subsidiary called Printwise,

1 and we were one of two printers to partner with
2 them to develop the ink. We actually ran one job
3 zero VOCs. We used their ink. We washed our
4 presses up with water and soap, and the only VOCs
5 we would have had is a very -- I think it's .006
6 parts per million on our fountain solution, would
7 have been the only VOCs that would have been in
8 that job.

9 Trouble is, it only dried about 90
10 percent. We were concerned because of our
11 products, our school books, that kids would get it
12 on their clothes, face and that, so we actually
13 ended up developing a product which had about
14 between 18 and 21 percent VOCs where normal
15 printing inks have between 38 and 42 percent.

16 A year ago the new CEO at Duplex (sic)
17 Products came out and shut down several Duplex
18 (sic) plants and dissolved the print supplies
19 operation there. Matter of fact, we had
20 volunteered at one time to get with Rich and to
21 speak to the environment, the environmental groups
22 around the state of running alcohol-free Genesis,
23 running VOC-free, but unless somebody buys the
24 company and picks it up, it's not going to really

1 happen because it's a very expensive product. The
2 ink at the end was \$2.20 a fountain. We could have
3 ran it normally for about 97 cents a fountain, but
4 it was something that we wanted to do.

5 Our company really started with three guys
6 and all of us are very really appreciative of our
7 employees, our customers, our community and our
8 environment. Myself -- on December 9th this year,
9 1996, a month and a half ago, my wife was put on
10 the transplant list at Loyola so -- excuse me a
11 second. I've lived with lung disease for ten
12 years. She's on oxygen 24 hours a day. I have
13 more concerns than you have about this.

14 And actually the decisions we made weren't
15 related to my wife. They were just good things
16 that we should be doing and it wasn't -- many of
17 these things were started before the ten years ago
18 that she was diagnosed with rare lung disease
19 that's common only in women, but these were things
20 the way our company was built.

21 Our presses that we wanted to take down or
22 wanted to run, they produced the products you
23 have. Our main product is school books and you
24 have three typical products.

1 Q. We're looking at Exhibits 2, 3 and 4 now,
2 aren't we, Mr. Frank?

3 A. Yes, yes. No. 4 is the type of product that we
4 run on -- No. 4 and actually No. 5 are the type of
5 products we run on Presses 3 and 4. They're
6 basically one color student workbooks.

7 MS. FRANK: I don't have Exhibit 5.

8 THE WITNESS: They're under your arm.

9 MS. FRANK: I have 2, 3 and 4.

10 MR. ANAYA: Exhibit 5 is the ink.

11 MS. FRANK: Oh, okay, thank you.

12 A. We run workbooks, and the thing is, our presses
13 are so old we couldn't run anything else on them
14 but simple work like this. If you would take one
15 of these books and you'd put it together and group
16 all the ink together in one corner, you'd only have
17 about 25 percent ink coverage. It's not like
18 you're printing a four-color half tone where you've
19 got yellow on top of red on top of blue on top of
20 black and you got 250 to 300 percent coverage and
21 saturation on a picture.

22 Q. This is a very low coverage product?

23 A. It's extremely low coverage. It's also the
24 least profitable of all the printing segments.

1 There isn't anybody that's voting for raising
2 property taxes to support school buildings. It's
3 almost like the presses are performing a community
4 function. Now, the normal lifetime for a press is
5 20 to 25 years. Press 3 is a 1969. It is 28 years
6 old this year and we've asked on Press 3 that we
7 could be able to run it until next March and that
8 we would cease operations. The reason for running
9 it, it has not run since October but school books
10 are normally produced between the months of April
11 until the middle of August in order to get into the
12 school system. We need the capacity this summer in
13 order to get out our school books.

14 The other two presses are Press 4 and 5.
15 They're 1974. They're 23 years old. Press 5 runs
16 the two color work so if you take a look at the red
17 one, you see the pupils work with teacher's
18 answers, and 95 percent of the work we run on these
19 three presses are educational work.

20 We looked at trying to put pollution
21 devices on, and if we could have done them in an
22 economical way, we would have. We would have tried
23 to even put a used unit on them except the
24 equipment is so old that the dryers have such big

1 fans that move so much CFM, even though there's
2 very little VOCs, we just need really a large unit
3 to handle the CFMs without having the VOCs to
4 eliminate, and so with one press for one year and
5 the other two, we'd like to think that we could
6 replace them with one new press by 1998 but we
7 don't know that. We don't know what's going to
8 happen in the marketplace.

9 A new press stripped down is \$4 million.
10 An average press is 6 to \$8 million. We can't do
11 that. If we did it we couldn't run school books
12 because we couldn't afford the rate of return on
13 them. So that's when we proposed to you folks to
14 run Press 3 and that we would go until the end of
15 1999 and at the end of 1999 or March 30th, whatever
16 it is, 1999, we would either try to come up with
17 get one press to replace the two or we would come
18 back and we would ask you six months ahead of time
19 for a permit to put pollution control on.

20 What would happen there is instead of
21 having three presses putting out so much CFMs, we
22 would have two, that we think we could find, units
23 out there that we could find a used one and put it
24 in if we have to run these presses longer.

1 We sat there and I think Rich and that, we
2 looked at the price for doing this, and our total
3 tonnage for 1996 was 9.64 tons. These three
4 presses produce 5.79 tons. Press 1 and 2 produce
5 3.85. We've got a 25 ton threshold. We're way
6 under it already to spend this kind of money. It's
7 just really taking away from the employees because
8 that's where it's going to come from. It's going
9 to come from the employees in one form or another.
10 It has to come from that area.

11 We're not interested in shutting down
12 presses and laying off employees. We have never
13 laid off a full-time employee since we started our
14 business. We've cleaned bathrooms and painted and
15 did floors but we don't send anybody home.
16 Everybody has rent. They have utilities. They
17 have car payments. They have children. We don't
18 think it's reasonable, so our company has never
19 done that.

20 And I wanted to tell you these things
21 about our company because it's just too many times
22 that people look at government agencies and
23 businesses and citizens as being three different
24 pots. We're not. We're all in this together and

1 we need to work together.

2 Rich can get into the cost, if you want to
3 get on the cost, but the thing that bothered me
4 really when I asked for the variance was the
5 potential to emit versus the actual. There's no
6 way that these presses could emit -- based on their
7 age and other things, could emit that kind of
8 pollution. I mean, I look at my car speedometer.
9 It goes 120. I've never driven 120 miles an hour,
10 neither have any of you and I have driven -- you
11 have, huh?

12 But I'll tell you one thing. You're not
13 driving a 1969 or 1974 car neither. There's a real
14 practicality about this. I think this particular
15 law and regulation as far as directing the small
16 and midsized printers is very unfair. I think that
17 presses that are over 15 years old where people are
18 under their threshold should be grandfathered in.
19 I think who wrote this does not have a lot of
20 practical experience in business. I really don't.

21 David, you didn't write this, did you?

22 MR. BLOOMBERG: (Nods head.)

23 MR. FRANK: I'm sorry.

24 MS. FRANK: And we held public hearings.

1 A. But I really think if a company is under the
2 threshold and they're running presses over 15 years
3 that only have 10, 15, most of the people that are
4 running them are small businesses. It's not like
5 you're going out and changing a filter on a gas
6 pump at a gas station. This is high capital rated
7 and I really think that it could be improved. I
8 think it could be improved from a -- on a fairness
9 level to small and midsized companies.

10 And that's really where I got started.
11 Gosh, this isn't fair. This really is not fair and
12 I wish you'd consider that point when you get there
13 if there could not be a fair approach for small
14 companies. We're all trying to create jobs. We're
15 all trying to improve education. We're all trying
16 to work together. We have as much desire as you do
17 to have a clean atmosphere and create those jobs.

18 And you know, the costs are all in the
19 book and Rich can say it and that there. Basically
20 on our company there's four employees that
21 basically own the company. It's very simple to
22 liquidate the company and take the money and put it
23 in CDs and stocks and bonds and have no risk, no
24 dealing with you people, but that is not the

1 prudent thing to do. That's not what we're here
2 for. And I think I'm just going to conclude by
3 that unless you have something that you'd like to
4 ask me.

5 MS. FRANK: First, Mr. Anaya, did you have
6 anything else?

7 MR. ANAYA: Thank you.

8 Just real quickly, Mr. Frank, let's turn
9 our attention to the Agency's recommendation, if
10 you would, Page 13, 14, 15. I think you're looking
11 there at the amended petition. Here's a copy for
12 you, Page 13, 14 and 15.

13 Have you had a chance to review the
14 compliance plan and compliance schedule as
15 recommended by the IEPA?

16 A. Yes, I have.

17 Q. Regarding the compliance plan, the description
18 there about preparation, maintenance of records,
19 that's acceptable and something that D.B. Hess is
20 available to do?

21 A. We do it every day.

22 Q. And within 45 days of the report there's some
23 quarterly reports that we'd have to make. D.B.
24 Hess is prepared to do that?

- 1 A. Yes, we are.
- 2 Q. Similarly with Sections 3 and 4, we're prepared
3 to monitor the presses according to the rules in
4 that particular citation as well as the final
5 solutions?
- 6 A. Our material is all computerized.
- 7 Q. And Mr. Paddock who will testify a little bit
8 later does that work; is that accurate?
- 9 A. That's correct, he's chief renegade.
- 10 Q. And 5 and 6 are things we're prepared to do
11 also; is that accurate?
- 12 A. Those are already being done.
- 13 Q. The compliance schedule, 1, 2, 3 and 4 are what
14 you just testified to just a few moments ago.
15 That's the plan. That's how we're going to retire
16 and control presses 3, 4 and 5?
- 17 A. One second here. Yes. I just had to go over
18 that. Yes, if we continue to operate after March
19 30th, 1999, we'll find something that -- a size
20 down that we could continue to operate, that's
21 agreeable.
- 22 Q. So items No. 1, 2, 3 and 4 are things that we
23 are prepared or already implementing.
- 24 A. That's correct.

1 Q. Prepared to implement or already are
2 implementing. With regard to No. 5, you heard me
3 make a discussion earlier with the Hearing Officer
4 that we had asked for and negotiated a --

5 A. Six months.

6 Q. -- six-month period instead of a one-year
7 period in that provision; is that accurate?

8 A. That's correct.

9 Q. Otherwise that's your understanding of the
10 variance also.

11 A. That is correct.

12 Q. And D.B. Hess is prepared to implement that
13 part of the variance?

14 A. Yes, we are.

15 Q. Finally on Paragraph 45 we discussed striking
16 the words or retrofitting. You've agreed to strike
17 that language also, have you not?

18 A. Retrofit, yes, we will replace it if we have
19 to, that's correct.

20 Q. In general is it fair to characterize your
21 statement, your testimony today, as the cost to
22 control Presses 3, 4 and 5 would be unreasonable?

23 A. Yes.

24 MR. ANAYA: I have no further questions.

1 MS. FRANK: Miss Archer?

2 MS. ARCHER: Yes, thank you.

3 CROSS EXAMINATION

4 BY MS. ARCHER:

5 Q. Mr. Frank, I just want to clarify the useful
6 life on Presses 3, 4 and 5.

7 A. Yes.

8 Q. I think you testified that Press 3 was
9 installed in 1969.

10 A. It is a 1969 press.

11 Q. Okay, and Presses 4 and 5 were both 1974?

12 A. I believe one's -- I believe they're both
13 '74s. One might be a '75 but it's certainly '74,
14 '75.

15 Q. There was just some contradictory dates in the
16 petition. I just want to make sure that that's
17 right.

18 A. What was the dates?

19 Q. Press 3 was installed in '75.

20 A. No, that's wrong.

21 Q. And Presses 4 and 5 in '84, so it was --

22 A. They were installation dates, yes, they were.
23 You are correct on that. Those are installation
24 dates but they were used presses. Yes, you are

1 absolutely right on that information you have but
2 these are used presses that we bought from other
3 printers that they were no longer -- they were not
4 for the type of work they were running, no longer
5 run the quality necessarily or speed.

6 Q. Right, I want to make sure I understand the
7 discrepancy on that.

8 A. You are right, uh-huh.

9 Q. I think you've gone over this with Mr. Anaya
10 but just to -- so I'm totally clear, by March 30th
11 of 1999 for Presses 4 and 5 --

12 A. Yes.

13 Q. -- those will either have ceased operation or
14 been totally replaced.

15 A. No, that's two out of three.

16 Q. Okay.

17 A. One is --

18 Q. Ceased operation.

19 A. Ceased operation. Two will have been replaced
20 with a different press, presses that will be in
21 compliance or they would have catalytic control on
22 them.

23 MS. ARCHER: Okay, that's fine. Thank you,
24 Mr. Frank.

1 MR. ANAYA: I have no redirect.

2 MS. FRANK: Okay. You can call your next
3 witness.

4 MR. ANAYA: Mr. Paddock.

5 STEPHEN L. PADDOCK,
6 being first duly sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. ANAYA:

10 Q. Mr. Paddock, would you state your name for the
11 record, please.

12 A. Steve Paddock.

13 Q. How do you spell your last name?

14 A. P-a-d-d-o-c-k.

15 Q. Steve, where do you live?

16 A. 13307 Hickory Lane, that's in Woodstock,
17 Illinois.

18 Q. And where are you employed?

19 A. At the D.B. Hess Company.

20 Q. What is your title?

21 A. Special project assistant.

22 Q. And what are your duties at D.B. Hess?

23 A. I keep track and monitor all EPA functions and
24 ISO 9000 quality system.

1 Q. So one of your duties includes keeping track of
2 the compliance status of the heatset offset
3 presses; is that accurate?

4 A. Yes.

5 Q. And as we understand it today, Presses 1 and 2
6 are controlled and in complete compliance?

7 A. Yes, they are.

8 Q. And the fountain solution is in complete
9 compliance?

10 A. Yes.

11 Q. And the wash-up solution is also in complete
12 compliance?

13 A. Yes.

14 Q. And you keep daily records of that, don't you?

15 A. Right.

16 Q. And as part of the packet, I think it was
17 Petitioner's Exhibit No. 1, we have an example
18 there of the ink fountain solution and blanket wash
19 VOM report for Press 3, for Press 4 and for Press 5
20 attached, don't we?

21 A. Yes.

22 Q. And is everything in those reports accurate?

23 A. Yes, they are.

24 Q. And they were all performed all with -- the

1 calculations were made under your direct
2 supervision?

3 A. Yes.

4 Q. This is the kind of thing we've been doing for
5 how long at D.B. Hess?

6 A. We started this I believe in May of 1995 on the
7 computer system.

8 Q. And how did you get started doing this?

9 A. I believe Nick Relwani helped us. He had some
10 advice on it, updating our current method of
11 keeping track.

12 Q. So you've taken some guidance from the
13 Agency --

14 A. Yes.

15 Q. -- on the record keeping and you've implemented
16 the Agency's guidance?

17 A. Yes.

18 Q. And it's your intention to continue this
19 through the period in variance.

20 A. Yes.

21 MR. ANAYA: I have no further questions.

22 MS. FRANK: Miss Archer?

23 MS. ARCHER: I have no cross.

24 MS. FRANK: Thank you. You can call your next

1 witness.

2 MR. ANAYA: Thank you. Mr. Richard Trzuppek,
3 please.

4 RICHARD TRZUPEK,
5 being first duly sworn, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. ANAYA:

9 Q. Mr. Trzuppek, would you please state your name
10 and spell it, please.

11 A. Richard Trzuppek, last name is spelled,
12 T-r-z-u-p-e-k.

13 Q. Where do you live, sir?

14 A. I live in Streamwood, Illinois.

15 Q. What's your occupation?

16 A. I'm an environmental consultant.

17 Q. Can you tell me what your education is.

18 A. I have a bachelor's of science in chemistry.

19 Q. And do you have any training, experience in air
20 regulation, specifically with regard to the
21 printing industry?

22 A. Yes, I do.

23 Q. Can you tell me what that is.

24 A. I've been involved in environmental work in air

1 pollution since 1984. The larger part of that has
2 been with the printing industry, worked as a
3 consultant for companies like RR Donnelly, Treasure
4 Chest Advertising, who are the biggest printers in
5 the country.

6 I've -- I'm a member of the Graphic Arts
7 Technical Foundation. I'm a member of the
8 Environmental Conservation Board of the Printing
9 Industries of America which is a national printers
10 group, and as a board director, member of the
11 Airways Management Association, Lake Michigan State
12 Section, I've been involved in putting on printer
13 workshops.

14 Q. Can you tell me how long you've been familiar
15 with D.B. Hess' operations.

16 A. Started working with D.B. Hess approximately a
17 year and a half ago.

18 Q. And you're involved in the negotiations and the
19 analysis and the calculations that form the basis
20 of our petition for a variance in this cause?

21 A. That is correct.

22 Q. Can you tell me what the lithography rule at
23 issue is.

24 A. Essentially to distill the rule down it had two

1 main features. It required the use of lower VOC
2 materials, specifically in the fountain solution
3 blanket wash. It also pushed down the threshold
4 for which printers would have to control their ink
5 oil emissions.

6 Q. Now, I'm handing you what we previously have
7 marked for identification as Exhibit 8. Can you
8 tell me what that is, please.

9 A. This is a copy of IEPA testimony in regard to
10 the lithography rule.

11 Q. Specifically there's testimony from two
12 witnesses. Do you recall who they are?

13 A. I do.

14 Q. What are their names?

15 A. Richard Forbes and David Bloomberg of Illinois
16 EPA.

17 Q. Now, in that testimony is it a fair and
18 accurate representation of the lithography rule?

19 A. Yes, it is.

20 Q. And all of the principles and background of the
21 rule?

22 A. I think it is.

23 Q. And you would consider that to be a fair and
24 accurate statement of and description of the

1 lithography rule, would you not?

2 A. Yes.

3 Q. At issue here, Mr. Trzupsek, is the cost of
4 control, is that not -- is that your conclusion?

5 A. Yes, it is.

6 Q. And did you do any analysis of other
7 alternatives?

8 A. Yes, we did.

9 Q. What were those alternatives?

10 A. We looked at different control options, and
11 would you like me to take you through the --

12 Q. Very, very briefly, please.

13 A. Carbon absorption was dismissed. Essentially
14 the ink oils are too heavy to be destroyed from the
15 carbon so it's not a practical technology.
16 Condensing technology has been proven in practice
17 not to work for these type of ink oils which left
18 really just oxidation and catalytic or thermal
19 oxidation.

20 Q. I'm handing you what we've previously marked
21 for identification as Exhibit No. 6. Do you
22 recognize this?

23 A. I do.

24 Q. What is it?

- 1 A. It's a document that myself and others at my
2 company prepared called Cost of VOM Control which
3 summarizes the cost of control of VOM at D.B. Hess.
- 4 Q. As I understand it the costs are described
5 there to control D.B. Hess' emissions range between
6 50 -- strike that, between 48,000 and \$69,000 per
7 ton per year; is that accurate?
- 8 A. That is correct.
- 9 Q. Are you aware of any industry standards for
10 reasonable costs to control?
- 11 A. There was a cost and a reference in the IEPA
12 testimony on lithography rule.
- 13 Q. And that was in Exhibit No. --
- 14 A. Exhibit 8.
- 15 Q. And what were those costs, do you recall?
- 16 A. Approximately 1800 to \$3100 a ton.
- 17 Q. So the range that we have of 52 -- strike that,
18 of 48,000 to 69,000 pursuant to your calculation
19 would be extremely high; is that accurate?
- 20 A. Correct.
- 21 Q. And that forms the basis for our petition for
22 variance today.
- 23 A. That's correct.
- 24 Q. With regard to the environmental impact, did

1 you do any modeling?

2 A. We did.

3 Q. And can you tell me the basis of that model.

4 A. We used an Illinois EPA model -- I'm sorry,
5 excuse me. It's a US EPA model called RPM IV which
6 is used to model ozone impact of VOC emitting
7 sources.

8 Q. Now I'm handing you what we've previously
9 marked Exhibit 7. Do you recognize it?

10 A. Yes, I do.

11 Q. What is it?

12 A. It's a summary of that modeling data and all
13 the raw data that went into the model.

14 Q. Can you analyze -- or strike that.

15 Can you describe very quickly what
16 assumptions you used in creating that model.

17 A. We essentially looked at three cases. We
18 looked at the ozone impact at current permitted
19 conditions at D.B. Hess. We looked at ozone impact
20 at using current permitted material use levels if
21 the litho rule was applied and we looked at the
22 ozone impact at the variance, what would be allowed
23 under the variance.

24 Q. What day was the model performed on?

1 A. The day we chose was June 21st, 1991 which is
2 what Illinois and US EPA are using in their studies
3 of ozone effects as the -- a maximum ozone impact
4 day.

5 Q. That was a particularly bad day?

6 A. Stagnant air, hot. It was a day that was
7 particularly good for creating ozone.

8 Q. Particularly good for creating ozone,
9 particularly bad for the environment.

10 A. Correct.

11 Q. In your opinion -- let me ask you again --
12 strike that.

13 Can we conclude from the model without
14 going through it in great detail right now that
15 even under the variance, progress is being made
16 toward reduction of ozone and ozone impact?

17 A. Yes, we can.

18 Q. If we -- from current conditions even with
19 implementing the variance, we're still making
20 progress toward reduction of ozone.

21 A. Correct.

22 Q. In your opinion does the proposed variance take
23 into consideration various reasonable concerns
24 about costs and legitimate business concerns at

1 D.B. Hess?

2 A. Yes, I believe it does.

3 Q. And at the same time we still make progress
4 toward ozone reduction.

5 A. Yes.

6 Q. Finally, the major source of VOM associated
7 with Presses 3, 4 and 5 is ink. Is that an
8 accurate statement?

9 A. The ink oil, that's correct.

10 Q. The ink oil, okay. Now, for the record we've
11 provided samples of the ink oil in Exhibit No. 5.
12 I would caution anybody not to open them unless
13 they've got a rubber suit on or gloves, but it's
14 there for anyone including anyone in the public
15 that would want to see it.

16 Can you describe the consistency of
17 Exhibit No. 5 without opening it?

18 A. Yes. It's heavy paste-like inks that are
19 extremely viscous and would not come out if you
20 turn the can over.

21 Q. Can you describe the ingredients.

22 A. The larger part of them consists of pigments
23 and chemical binders that creates -- is left on the
24 printed imagine. Approximately 30, 40 percent of

1 it is Magie oils which are heavy petroleum.
2 Q. Magie oils are also known in the industry as
3 white oils?
4 A. Yes, they are.
5 Q. These Magie oils are currently listed as a VOC
6 pursuant 40 CFR Section 51.100(s).
7 A. I would say it meets that technical definition.
8 Q. I beg your pardon. They're not listed. They
9 would come within the definition.
10 A. That's correct.
11 Q. Are you aware of any efforts by the printing
12 industry to take the white oils out of the VOC
13 list?
14 A. I am.
15 Q. I'm handing you what we've previously marked
16 for identification as Exhibit No. 9. Do you
17 recognize it?
18 A. I do.
19 Q. What is it?
20 A. It's a copy of a petition that was filed on
21 behalf of the printing industry to have Magie oils
22 delisted as a VOC.
23 Q. In the Reader's Digest version can you tell us
24 why the industry -- what technical basis they have

1 for delisting white oils or Magie oils.

2 A. Potentially there's been a number of studies
3 done that show that the ozone creating impact of
4 these particular organic compounds is extremely low
5 in the printers' opinion, and I would agree. It's
6 so low that they should not even be counted towards
7 a VOC inventory. They create very little.

8 Q. But the point of the matter is they are
9 listed.

10 A. They are listed.

11 Q. And you're not suggesting today that the
12 Illinois Environmental Protection Agency or the
13 Pollution Control Board should by this action
14 unilaterally delist Magie oils, are you?

15 A. No. I guess it's rather my intention with both
16 this and the modeling data to support that the
17 environmental impact of D.B. Hess' operations,
18 essentially given its very low emissions in the
19 first place, is negligible because of the extreme
20 low reactivity of the compounds in question.

21 Q. In conclusion is it your testimony that the
22 lithography rule unnecessarily impacts D.B. Hess
23 and creates an unreasonable cost burden?

24 A. Yes.

1 Q. Is it also your opinion that the reasonable --
2 the variance is reasonable to D.B. Hess under the
3 circumstances?

4 A. Yes.

5 Q. Is it also your opinion that the variance still
6 continues to reduce ozone impact?

7 A. Yes.

8 MR. ANAYA: I have no further questions.

9 MS. FRANK: Miss Archer?

10 MS. ARCHER: Just a few. Thank you.

11 CROSS EXAMINATION

12 BY MS. ARCHER:

13 Q. Mr. Trzupsek, you stated several times that the
14 issue in this variance is the cost of control.

15 A. Yes.

16 Q. Wouldn't you agree that the cost of control on
17 presses that are nearing the end of their useful
18 life is the real issue?

19 A. Yes.

20 Q. And that to create a substantial short-term
21 capital environment on these same presses would be
22 the cost of control?

23 A. Yes.

24 Q. Did you prepare Petitioner's Exhibit No. 8 --

1 No. 7?

2 A. The Ozone Modeling Data?

3 Q. Yes.

4 A. No, a member of my staff prepared, ran the
5 actual model.

6 Q. And did you review that data though?

7 A. Yes, I did.

8 Q. What kind of background do you have in
9 modeling?

10 A. Personally I have a general background in
11 modeling. I've worked with different models
12 including RPM for the last five, six years.

13 Q. And you've worked at Air Solutions since 1984?

14 A. Actually Air Solutions was a firm we created
15 two years ago. I've worked different environmental
16 consultants before then.

17 Q. D.B. Hess does currently use the white oil on
18 Presses 3 through 5?

19 A. Yes, they do.

20 Q. In what amounts, do you know?

21 A. Their actual emissions for 1996, about a little
22 less than five tons would be white oil emissions.

23 Q. So you would expect if US EPA went ahead and
24 delisted the white oils as a VOM to have a further

1 reduction of five tons per year.

2 A. Correct, in the inventory of VOM emissions,
3 yes.

4 MS. ARCHER: Thank you.

5 MR. ANAYA: No redirect.

6 MS. FRANK: Do you have any other witnesses?

7 MR. ANAYA: No, Your Honor, we rest.

8 MS. ARCHER: Could we have about a five minute
9 break to see if we have anything?

10 MS. FRANK: Sure, certainly.

11 (A recess was taken at 12:14 p.m. and
12 proceedings resumed at 12:19 p.m.)

13 MS. FRANK: We're going to go back on the
14 record. Miss Archer does want to call one
15 witness. Go ahead and call your witness.

16 MS. ARCHER: I'd like Mr. David Bloomberg sworn
17 in, please.

18 DAVID BLOOMBERG,
19 being first duly sworn, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. ARCHER:

23 Q. Mr. Bloomberg, on direct testimony Mr. Frank
24 testified that the potential to eliminate

1 limitations and the lithography rule, he felt those
2 were unfair for small companies. Just to clarify,
3 does the lithographic printing rule have a PTE
4 limitation?

5 A. No, the lithographic printing rule, Section
6 218.405, has an actual emission applicability
7 level, and for heat sets it also has a maximum
8 theoretical mix of 100 tons per year. There is no
9 25 ton PTE applicability level in the lithographic
10 printing rule. Also, the actual is 100 pounds per
11 day determined on a monthly basis, so as I said,
12 there is no PTE applicability rule so that really
13 does not apply.

14 Q. But D.B. Hess does have a federally enforceable
15 state operating permit currently that limits their
16 potential to emit to under 25 tons.

17 A. That's my understanding.

18 MR. FRANK: That is correct.

19 MS. FRANK: Anything?

20 MR. ANAYA: No cross. At this point, Your
21 Honor, I'd move into evidence Petitioner's Exhibits
22 1 through 9.

23 MS. FRANK: Okay. Is there any objection?

24 MS. ARCHER: No objection.

1 MS. FRANK: Then Petitioner's Exhibits 1
2 through 9 are admitted into evidence.

3 Is there anything further from either
4 side?

5 MS. ARCHER: I have -- well, would you like to
6 do a closing?

7 MS. FRANK: Before we do that, can we go off
8 the record for just a second.

9 (A discussion was held off the record.)

10 MS. FRANK: Let's go back on the record.
11 Before we do closing arguments, the parties have
12 agreed to waive their rights to briefs in this
13 matter, so at the close of closing arguments this
14 case will be officially over and the record will be
15 given to the Board. Once the transcript is in then
16 it will be before the Board.

17 Also for the record, I'm required by the
18 Board's procedural rules to do a statement on
19 witness credibility. I found all the witnesses to
20 be credible at this hearing so that that is not an
21 issue.

22 Mr. Anaya, if you would like to do a
23 closing statement.

24 MR. ANAYA: Thank you very much.

1 D.B. Hess is a lithographic printer that's
2 the subject of lithography rule which became
3 effective March 15th, 1996. At that time two
4 heatset presses were in full compliance. Fountain
5 solution was in compliance because of voluntary
6 efforts that the company made. Wash-down or
7 wash-up solution, depending on if it's a lawyer or
8 a technical person speaking, is also in substantial
9 compliance, all through efforts that the company
10 made voluntarily well in advance of any regulatory
11 reason.

12 Cold set web sheet fed presses have been
13 in compliance since they've been in operation.
14 Immediately before the new lithography rule D.B.
15 Hess was in full compliance with all applicable
16 Clean Air Act rules and regulations. They're a
17 good, cooperative corporation. They're a good,
18 responsible neighbor. They're good with the
19 community.

20 Yet immediately after the rule was
21 implemented three old presses required very
22 expensive control, and that's in essence the
23 issue. The control costs are extraordinary. Their
24 orders of magnitude are greater than what has been

1 testified to as being reasonable under the
2 circumstances. The costs would be an unreasonable
3 business expense for a very slight benefit to the
4 company.

5 With the variance that was proposed which
6 was negotiated in good faith by both the parties in
7 this particular case, we're going to continue to
8 make progress towards ozone and VOM reduction, at
9 the same time giving the benefit of business
10 concerns to my client, D.B. Hess.

11 The complete application of the
12 lithography rule as promulgated would present an
13 arbitrary, out of balance and unreasonable burden
14 on my client. The variance that we negotiated
15 again in good faith balances D.B. Hess' business
16 concerns, the goal of balancing VOM, reducing VOM,
17 and I want to stress is a very temporary measure
18 for a period of three years.

19 This case is somewhat unusual in the sense
20 that we filed the petition immediately before the
21 rule became into effect. I guess we'd ask the
22 Board to consider granting the variance from March
23 15th of 1996 through the date of 1998, March 30th,
24 1998, as described in the --

1 MS. FRANK: '98 or '99?

2 MR. ANAYA: '99, I beg your pardon. Thank
3 you. In 1999. I just caused my client to hurt.
4 From March 15th, 1996 through March 30th of 1999.
5 Thank you.

6 MS. FRANK: Miss Archer?

7 MS. ARCHER: Thank you.

8 Actually with Press 3 it would be
9 March 30th of 1998, the term of the variance for
10 Press 3.

11 I would also like to address retroactive
12 relief. Petitioner did file its initial petition
13 with the Board on March 15th, 1996 which was the
14 compliance date for the new lithographic printing
15 regulations. Petitioner also filed amended
16 petition on August 1st, 1996, and as a general
17 matter, retroactive relief is not usually granted
18 in variance proceedings unless the Board finds
19 extraordinary or unusual circumstances exist.

20 Neither D.B. Hess' petition or the
21 Agency's recommendation explicitly addressed
22 retroactive relief; however, Illinois EPA believes
23 it is consistent with previous Board case law to
24 grant this variance petition from March 15, 1996.

1 The parties had been working in good faith prior to
2 the actual filing of the variance with the Board on
3 March 15th, 1996 as well as submitting draft
4 variance petitions back and forth before they
5 actually filed that date so the Illinois EPA does
6 believe it's consistent to grant retroactive relief
7 in this case.

8 The Illinois EPA stands behind its
9 recommendation with a few minor exceptions that we
10 have noted on the record today in testimony and the
11 compliance plan and schedule. Illinois EPA
12 believes that the testimony, D.B. Hess' variance
13 petitions and Illinois EPA recommendation clearly
14 delineates that the minimal -- that the
15 environmental impact will be minimal from the
16 facility, that the cost of compliance to put
17 afterburners on presses that are ending their
18 useful life would be arbitrary and unreasonable.

19 The variance will be consistent with
20 federal law and it will be submitted to US EPAs for
21 revision to lithographic printing regulations and
22 the compliance plant in the matter is concrete. It
23 has been negotiated and it has specific
24 milestones. For all these reasons, Illinois EPA

1 does not oppose granting this variance. Thank
2 you.

3 MS. FRANK: Thank you. Can we go off the
4 record for a second.

5 (A discussion was held off the record.)

6 MS. FRANK: Let's go back on the record. At
7 this time the parties would like to recall two
8 witnesses to give some testimony about the
9 retroactive nature of the variance.

10 Miss Archer, did you want to call them or
11 Mr. Anaya?

12 MR. ANAYA: I can call them.

13 MS. FRANK: That's fine. Do you want both of
14 them at once so that whoever can answer the
15 question can or do you want to do one at a time?

16 MR. ANAYA: I will direct my questions at both
17 and let the one who feels most comfortable answer.

18 MS. FRANK: For the record, can we state who's
19 going to be answering the questions?

20 MR. ANAYA: I'd recall Mr. Richard J. Trzupek
21 and Mr. David Bloomberg.

22 MS. FRANK: Okay.

23 MR. ANAYA: Gentlemen, we have been in
24 discussions with this negotiation on these

1 variances well before the rule date. Is that
2 accurate, Mr. Trzupek?

3 MR. TRZUPEK: Yes, it is.

4 MR. ANAYA: Do your notes reflect when we first
5 started negotiations with the Agency?

6 MR. TRZUPEK: I can recall that we first
7 contacted the Agency prior to March 15th, 1986.

8 MR. ANAYA: Do you remember when we made our
9 trip down to Springfield to meet with Miss Kolbe
10 and other members of the Agency?

11 MR. TRZUPEK: I believe that was in January of
12 1996.

13 MR. ANAYA: So it was several months in
14 advance. We had the opportunity to speak with Miss
15 Kolbe and what -- do you recall the other members
16 at that meeting?

17 MR. TRZUPEK: I believe --

18 MR. BLOOMBERG: No, I was not at that first
19 meeting.

20 MR. FRANK: David Hulskotter.

21 MR. BLOOMBERG: David Hulskotter, John Stefan.

22 MS. FRANK: Can you spell those for our court
23 reporter.

24 MS. ARCHER: Hulskotter is H-u-l-s-k-o-t-t-e-r

1 and he is with Illinois EPA permit section. John
2 Stefan is S-t-e-f-a-n from our compliance and
3 monitoring assurance section.

4 MR. ANAYA: And subsequent to that time we've
5 had conference calls with Mr. Bloomberg of the
6 Agency, Miss Kolbe, a woman by the name of Angela
7 Tin (phonetic). Do you recall those
8 conversations?

9 MR. TRZUPEK: I do.

10 MR. ANAYA: And at that point we discussed in
11 effect our first or second draft of compliance
12 plan.

13 MR. TRZUPEK: Correct.

14 MR. ANAYA: The Agency analyzed it, reviewed
15 it, discussed it with us.

16 MR. TRZUPEK: Correct, there was back and
17 forth.

18 MR. ANAYA: And you recall give and take on
19 both sides?

20 MR. TRZUPEK: Yes, I do.

21 MR. ANAYA: Negotiations were always in good
22 faith?

23 MR. TRZUPEK: Yes, they were.

24 MR. ANAYA: Mr. Bloomberg, do you remember

1 discussions that you had with me on the phone and
2 Mr. Trzupsek negotiating the terms of the compliance
3 schedule?

4 MR. BLOOMBERG: Yes, I do.

5 MR. ANAYA: Miss Kolbe was representing the
6 Agency at that particular time, was she not?

7 MR. BLOOMBERG: Yes.

8 MR. ANAYA: And we had more than one
9 conversation with regard to this variance prior to
10 the rule; is that accurate?

11 MR. BLOOMBERG: Prior to the compliance date of
12 the rule.

13 MR. ANAYA: The compliance date of the rule.

14 MR. BLOOMBERG: Yes.

15 MR. ANAYA: We had originally asked, as I
16 recall, for a five-year variance; is that
17 accurate?

18 MR. BLOOMBERG: Yes.

19 MR. ANAYA: The Agency objected?

20 MR. BLOOMBERG: Yes.

21 MR. ANAYA: And we negotiated the current
22 variance; is that accurate?

23 MR. BLOOMBERG: Yes.

24 MS. FRANK: Can I ask a question?

1 Mr. Bloomberg, do you have -- well, I don't know if
2 you have the authority to speak on behalf of the
3 Agency, but is there any objection to the
4 retroactive nature of the variance?

5 MR. BLOOMBERG: Not to my knowledge.

6 MS. FRANK: Okay.

7 MR. ANAYA: Mr. -- may I ask Mr. Frank a
8 question?

9 Mr. Frank, Presses 3, 4 and 5, they're
10 primarily seasonal; is that accurate?

11 MR. FRANK: Press -- well, they really have not
12 been. 4 and 5 run all the time. Press 3 has been
13 down since October because the educational cycle
14 ended, but I wouldn't really say they're seasonal.

15 MR. ANAYA: But they don't operate all the
16 time.

17 MR. FRANK: I would say they run regular weeks,
18 regular working days.

19 MS. FRANK: Okay. Is there anything further?

20 MR. ANAYA: I have nothing further.

21 MS. ARCHER: That covers it. Thank you.

22 MS. FRANK: Thank you. Then this proceeding is
23 ended and the hearing is closed.

24 (The hearing was concluded at 12:32 p.m.)

1 ILLINOIS POLLUTION CONTROL BOARD
2 THE D.B. HESS COMPANY, INC.,)
) PCB NO. 96-194
3 Petitioner,)
) McHenry County
4 v.)
) Courthouse
)
5 ILLINOIS ENVIRONMENTAL) Woodstock, Illinois
PROTECTION AGENCY,)
6) January 23, 1997
 Respondent.)
7
8

9 I, Carrie L. Vaske, hereby certify
that I am a Certified Shorthand Reporter of the
10 State of Illinois; that I am the one who, by order
and at the direction of the Hearing Officer,
11 Deborah L. Frank, reported in shorthand the
proceedings had or required to be kept in the
12 above-entitled case; and that the above and
foregoing is a full, true and complete transcript
13 of my said shorthand notes so taken.

 Dated at Ashton, Illinois, this 28th
14 day of January, 1997.

15
16
17 Carrie L. Vaske
18 Registered Professional Reporter
 Certified Shorthand Reporter
19 Illinois License No. 084-003845
 8991 Prairie Road
20 Ashton, Illinois 61006
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23
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