

ILLINOIS POLLUTION CONTROL BOARD  
April 24, 1986

ALTON PACKAGING CORPORATION,        )  
  )  
          Petitioner,                    )  
  )  
          v.                                )        PCB 85-145  
  )  
ILLINOIS ENVIRONMENTAL                )  
  PROTECTION AGENCY,                    )  
  )  
          Respondent.                    )

MR. RICHARD KISSEL, MARTIN, CRAIG, CHESTER & SONNENSCHNEIN,  
APPEARED ON BEHALF OF PETITIONER.

MR. WILLIAM INGERSOLL APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J. D. Dumelle):

This matter comes before the Board upon a permit appeal filed on October 1, 1985 on behalf of Alton Packaging Corporation (Alton). Alton requests that the Board reverse the August 27, 1985 decision by the Illinois Environmental Protection Agency (Agency) denying Alton's application for renewal of an operating permit for its Alton mill.

Alton is a fully integrated company in the pulp and paper industry engaged in the manufacture and sale of paperboard and paperboard packaging products which is headquartered in Alton, Illinois. Alton operates a mill in Alton, Illinois which employs about 350 people and produces approximately 600 tons of paperboard per day which is then converted into paperboard manufacturing products for corrugated shipping containers. In the production of paperboard products, Alton utilizes boilers to produce the steam required for heating and process use. Two of these boilers, Boilers 6 & 7, are the subject of this permit appeal. (Pet. Brief pp. 1-2).

Boilers 6 & 7 are pulverized, wet bottom boilers. Coal is pulverized to a fine powder and blown into the boilers. Ash is both emitted through the vented air as well as collected in the wet ash pit. The exhaust air from the boilers passes through mechanical collectors (multi-clones) and then through electrostatic precipitators and then vented to the atmosphere through two separate 192-foot stacks. There is no control device to deal with SO<sub>2</sub> emissions. When needed, low sulfur coal is burned to comply with applicable emission limits for SO<sub>2</sub>. (Pet. Brief p. 2).

On January 21, 1983, Alton filed a renewal permit application with the Agency for its Alton mill. Alton waived the 90-day decision period until the Board issued a final order in PCB 83-55 (site-specific rule) and PCB 83-49 (variance). The Board dismissed these proceedings on August 1, 1985. The Agency denied Alton's permit application on August 27, 1985 for the following reasons:

1. Based upon information submitted to the Agency, Boilers 6 and 7 presently emit sulfur dioxide at the average rate of 4.9 lbs per million Btu, an amount in excess of the applicable emission limit of 1.8 lbs per million Btu of 35 Ill. Adm. Code 214.141.
2. The Agency's ambient SO<sub>2</sub> monitor in Alton recorded a violation of the primary 24 hour SO<sub>2</sub> standard during 1984. Based upon a recent study performed by the Agency, Boilers 6 and 7 appear to have been the major contributor to this violation. Boilers 6 and 7 thus may cause violations of 35 Ill. Adm. Code 201.141 and 243.122(a)(2).

The first ground for the Agency's denial is not presently at issue. Alton filed a petition for variance (PCB 83-49) within 20 days after the effective date of the rule which established the 1.8 lbs/mmBtu SO<sub>2</sub> emission limitation, thereby staying the applicability of this emission limitation pursuant to Section 38(b) of the Environmental Protection Act. The Board subsequently dismissed the variance petition and the Agency contended that the stay was no longer in effect. However, Alton appealed the Board's decision to the appellate court which granted Alton's motion to stay the applicability of the 1.8 lbs/mmBtu SO<sub>2</sub> emission limitation to Alton's mill. Therefore, the Agency's first ground for denial is not presently applicable and will not be considered.

Concerning the second ground for denial, the Agency's ambient SO<sub>2</sub> monitor in Alton recorded two excursions from the primary SO<sub>2</sub> 24-hour standard in November 1984. (The primary 24-hour ambient air quality standard for SO<sub>2</sub> is 0.14 ppm). The first occurred during a 24-hour period on November 6 and 7. During this period, the maximum 24-hour average was 0.148 ppm. The second occurred during a 24-hour period on November 25 and 26. During this period, the maximum 24-hour average was 0.159 ppm. A violation of the primary SO<sub>2</sub> 24-hour standard occurs when two excursions from the standard occur within a one-year period. The Agency conducted an excursion study to determine the major contributor(s) to the violation. The excursion study determined that Alton's Boilers 6 and 7 appear to have been the major contributor to the violation. Thus, the Agency concluded

that Boilers 6 and 7 may cause violations of 35 Ill. Adm. Code 201.141 and 243.122 in the future and denied Alton's permit request.

Alton's position is that whether or not it was a contributor to the violation of the primary SO<sub>2</sub> 24-hour standard is not a proper basis up on which the Agency can deny a permit; rather, the Agency must have in the record that this will occur in the future and the record does not contain that. (R. p. 9). Alton supports its position by questioning the accuracy of the recorded excursion on November 6 and 7. Alton contends that the November 6 and 7 excursion was not an excursion because the range of accuracy of the monitored readings could range, based on a 95% confidence interval, anywhere from 9% too low to 5% too high. Furthermore, Alton contends that the November 6 and 7 excursion may have been lower since the precision check of the monitor before the recorded excursion indicated that the recorded sample was 5.5% higher than what the real value was. Lastly, Alton contends that the Agency's excursion study was not predictive of the future and, consequently, the Agency could not determine whether the operation of Alton's boilers would in the future cause a violation of the primary SO<sub>2</sub> 24-hour standard. (Pet. Brief pp. 7-10).

The Agency responds to these arguments by asserting that the November 6 and 7 excursion was in fact an excursion. The Agency asserts that the employee who testified on the range of accuracy was merely expressing his statistical confidence level and that under USEPA guidelines the reported data is not to be corrected. The Agency also contends that the precision check indicating that the monitor was recording slightly higher readings does not affect the accuracy of the reported data. This just means that the baseline reference had drifted above zero and the drift had corrected itself before the November 6 and 7 excursion. (R. p 50). Lastly, the Agency contends that even though the excursion study was not designed to predict what emission levels would protect air quality, some conclusions could be drawn about the future. The Agency employee, based on his expertise, concluded that future excursions were possible if Alton were allowed to continue operations as they were since the meteorological conditions during the excursions were not unusual and other SO<sub>2</sub> sources which would normally be expected to impact the monitor were not operating or operating at well below allowable limits. (Ag. Brief pp. 7-10).

The issue to be addressed by the Board in this permit appeal is whether the information provided by Alton to the Agency sufficiently proves that issuing a permit for Alton's mill will not cause a violation of the Act and Board regulations. This issue is to be decided by the Board based on the record before the Agency when it made its decision. Section 40 of the Act places the burden of proof in a permit appeal on the petitioner

to show that the Agency's decision was wrong. For the following reasons, the Board finds that Alton has not met this burden and affirms the Agency's denial of an operating permit for Alton's mill.

Alton's position in this permit appeal centers on the impropriety of the Agency's data which were used to determine that the November 6 and 7 excursion was in fact an excursion; and that Alton's boilers may in the future cause a violation of 35 Ill. Adm. Code 201.141 and 243.122(a)(2). The Board is not persuaded by any of Alton's arguments. Specifically, the Board finds that the November 6 and 7 excursion was in fact an excursion. Mr. David Kolaz, Manager of the Agency's Ambient Air Quality Monitoring Section, testified that USEPA guidelines specifically state that the measured data is not to be corrected for any measurements of precision or accuracy, either directly corrected or corrected in performing evaluations to determine attainment of a standard. (R. p. 33). Though a monitor that is consistently taking faulty readings should be removed from the state's monitoring system, Alton has not provided any information to the Board that would demonstrate that the Barton School monitor which recorded the November, 1984 excursions was consistently taking faulty readings.

Alton also argues that the November 6 and 7 reading of 0.148 ppm was 5% too high; the actual reading being 0.141 ppm. Alton contends that such a tenuous and de minimus number would not seem to be a proper basis on which to deny a permit, though Alton never acknowledges the contrary position that the November 6 and 7 reading was 9% too low. Alton's contention is seriously misplaced. Under the current federal and state air pollution control scheme, an area is either designated as attainment or non-attainment for criteria pollutants based on the best available information. This information includes the data obtained from the state's ambient air quality monitors. Once an area is designated as non-attainment, regardless of the degree of the non-attainment, major consequences flow. These consequences include the requirement that all existing major sources in the area install state-of-the-art pollution control technology, an increased demand for state and federal resources to correct the problem and an increased risk of having sanctions imposed on the area which may include construction bans on new sources and the loss of millions of dollars in federal funding. These are hardly de minimus consequences. Lastly, the determination of attainment or non-attainment is ultimately made by the USEPA using its guidelines. In view of these consequences, the Board cannot lightly dismiss the testimony that USEPA guidelines place the recorded values as a violation of the primary SO<sub>2</sub> 24-hour standard.

The Board also concludes that based on the information received from the excursion study, the Agency could reasonably

conclude that Alton's boilers may cause a violation of 35 Ill. Adm. Code 201.141 and 243.122(a)(2). While Alton questions the predictive capacity of the Agency's excursion study, it offers no data to suggest that the Agency's conclusions were unreasonable.

Alton's position in this permit appeal is misdirected. In this permit appeal, the burden is not on the Agency to prove that a violation will occur in the future. Rather, the burden is on Alton to prove that a violation will not occur in the future. Alton has not provided the Board with any information which would enable the Board to conclude that a violation of the primary SO<sub>2</sub> 24-hour standard will not occur in the future. Based on the record before the Agency, the Board finds that the information provided by Alton to the Agency fails to demonstrate that issuing a permit for Alton's mill will not cause a violation of the Act and Board regulations. Therefore, the Board affirms the Agency's denial of a permit for Alton's mill.

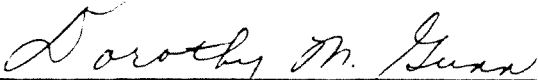
This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Board hereby affirms the Agency's denial of an operating permit for Alton's mill located at Alton Packaging Corporation's facility in Alton, Illinois.

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 24<sup>th</sup> day of April, 1986 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board