

ILLINOIS POLLUTION CONTROL BOARD
February 10, 1983

GETTY SYNTHETIC FUELS, INC.,)
)
 Petitioner,)
)
 v.)
)
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
 Respondent.)

PCB 81-171

LOUIS M. RUNDIO, JR., McDERMOTT, WILL AND EMERY, APPEARED ON BEHALF OF PETITIONER;

WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF ON RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. G. Goodman):

This matter is before the Board upon the October 30, 1981 petition of Getty Synthetic Fuels, Inc., (Getty) for variance from Rules 103 and 205(f) of Chapter 2: Air Pollution in connection with the construction and operation of a methane recovery facility located in Cook County, Illinois. Getty amended its petition on January 5, 1982 and again on March 24, 1982. Hearings were held in this matter on July 16 and November 30, 1982; no citizens appeared at the hearings and the Board has received no public comment in this matter.

Getty operates a facility at the C.I.D. Landfill, Calumet City, Illinois, which collects naturally produced landfill gas, separating the methane portions for subsequent sale to a pipeline company. The technology involved in the process is relatively new and Getty's facility is the first in the State of Illinois to utilize the process. In a prior Board proceeding concerning this facility, the Board held that hydrocarbon emissions from Getty's facility are subject to the limitations of Rule 205(f) of Chapter 2. Getty Synthetic Fuels, Inc. v. IEPA, PCB 80-171 (March 19, 1981), affirmed, Illinois Appellate Court, First Division, 81-1071 (January 29, 1982).

Rule 205(f) limits hydrocarbon emissions to 8 lbs/hr. Getty's facility is presently emitting heavy hydrocarbons at a rate of approximately 44 lbs/hr. Getty's failure to comply with the hydrocarbon emission rule is basically caused by the limited experience associated with this technology. The original facility design was based upon a successful operation in California but

conditions in Illinois required the installation of a different process. Getty now requests variance in order to allow a new gas stripping column and reclaiming system to be installed and tested.

In its Recommendation, the Illinois Environmental Protection Agency (Agency) states that it believes Getty's program for achieving compliance is reasonable and argues that denial of request for variance would not be in the best interests of the state since the facility will convert otherwise wasted landfill gas into usable fuel. In addition, the Agency points out that design deficiencies can be expected when new technology is investigated and that the hydrocarbons emitted from Getty's process would normally be emitted from the landfill itself. Getty's proposed compliance plan also anticipates an interim emission reduction and the episode action plan provides sufficient safeguards during periods of high ozone concentration. The facility is located in an industrial area, the closest residence being approximately one mile away. The Agency has received no complaints regarding the facility and Agency personnel have not found any odor problem.

The Agency notes that the facility is located in an area which has been classified non-attainment for ozone. Getty's variance, if granted, would extend past July 1, 1979 and would therefore have to be submitted to the United States Environmental Protection Agency (USEPA) as revision to the State of Illinois Implementation Plan (SIP). The Agency is of the opinion that the proposed variance is approvable as a SIP revision and states that it intends to submit it as a revision if variance is granted. The Agency recommends that variance be granted from Rule 205(f) of Chapter 2 until March 31, 1983 subject to certain conditions. It further recommends that variance from Rule 103(a) and 103(b) be denied as unnecessary since a variance from 205(f) of Chapter 2 will allow the Agency to issue the required permits.

On June 2, 1982 Getty filed its objections to the recommendation pointing out certain disagreements with the Agency's position and statement of the facts. At the hearing the parties reported that they had discussed their differences, that Getty had modified its compliance plan, and that the Agency had found the modified plan acceptable. The Agency entered the modified plan as Exhibit A herein, and amended its recommendation, filed on May 20, 1982, to incorporate the document.

On October 1, 1982, the Agency filed a Supplemental Recommendation in which it recanted its previous position with respect to the return of liquid by-products of the process to the landfill by Getty. The Agency feels that the placement of ignitable waste into a landfill is prohibited by Section 721.121 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code, Part 721. On October 12, 1982, Getty filed an objection to the Supplemental Recommendation and a Motion for Additional Hearing to consider the heretofore agreed issue. On October 14, 1982, the Board granted

Getty's motion, limiting the hearing to the single issue of the disposal of the liquid by-product. At the November 30, 1982 hearing the parties filed an Exhibit "A" which the Board interprets as an amendment to the existing Exhibit A, supra. This amendment addresses the Agency's concern with respect to the liquid by-products and appears to settle that issue.

The proposed compliance plan, as contained in paragraphs A through F of the Agency's recommendation and as modified by Exhibit A and the amendment, requires a reporting schedule by Getty to the Agency, that Getty obtain all required permits, a contingency plan in the event Getty fails to meet the required emission rate, a stack testing schedule with conditions, and a program for disposition of the hydrocarbon by-product. Although this compliance schedule is somewhat uncertain due to the problems inherent with the development of a new technology, the Board finds that it adequately protects the environment. The Board therefore finds that it would be an arbitrary and unreasonable hardship to deny the proposed variance considering both the hardship to Getty and the potential benefit to the state if Getty's facility is successful. In addition, the potential harm to the environment appears minimal and the compliance plan should thwart any significant excursions. The Board shall therefore grant variance from Rule 205(f) of Chapter 2 until October 1, 1983 under certain conditions. By October 1, 1983 Getty will have either achieved compliance or will have determined an alternate compliance program. The Board will deny variance from Rule 103(a) and 103(b) of Chapter 2 as unnecessary. Considering the uncertainty of some of the provisions of the compliance program, the Board shall retain jurisdiction in order to determine any disagreements between the parties.

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

ORDER

1. Getty Synthetic Fuels, Inc. is hereby granted variance from Rule 205(f) of Chapter 2: Air Pollution for its facility at the C.I.D. Landfill in Calumet City, Illinois until October 1, 1983 subject to the conditions contained in paragraphs A - E of the Illinois Environmental Protection Agency's Recommendation filed May 20, 1982 as modified by Exhibit A filed July 19, 1982 and the amendment filed November 30, 1982, all of which documents are hereby incorporated by reference as if fully set forth herein.
2. Variance from Rules 103(a) and 103(b) of Chapter 2: Air Pollution is denied.
3. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental

Protection Agency 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-171, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

- 4. The Board shall retain jurisdiction in this matter.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of February, 1983 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board