



Obear-Nester has not, however, controlled the noise emissions from the four fans which are the subject of this Variance. Obear-Nester states in its Petition that the design of any noise barrier for use with those fans is very important, and must be such that it does not interfere with the volume and pressure of air required for those fans. The company feels that a one-year period is necessary for the design and construction of the necessary abatement device.

The Agency's Recommendation agrees that a Variance is warranted in this case. The Agency notes that Obear-Nester has taken significant steps during 1975 and 1976 to prevent noise pollution. The Agency also feels that the steps taken and proposed by Obear-Nester will be effective.

With regard to the effect of a Variance grant, the Agency interviewed various residents adjacent to the Obear-Nester plant. Although some opposed the grant of the Variance, most agreed that it should be granted, especially if compliance would result by the end of the period, (Rec. Ex. 4-13). Although the Agency did not agree that no injury would result from the grant of the Variance (Rec. Ex. 15, p. 4), the Agency did agree that there would be no physical injury in the sense of hearing loss, (Rec. Ex. 16, p. 1). The Agency also felt that the adverse effects of the grant would be found in nuisance, interference with speech, etc., (Rec. Ex. 16, 16); in combination with ambient noise levels as high as 30-40 dB(A), Obear-Nester's operation could result in noise levels as much as 24 dB(A) higher than the day or night noise limitations, (id). However, the Agency also felt that the actions already taken to reduce other noise emissions from the plant would attenuate these high noise levels.

The Agency also agrees with Petitioner that the failure to obtain the Variance would impose a severe hardship. While the cost of compliance with the pertinent Regulations would not be too great, (approximately \$5,000 to \$10,000), the fans for which the Variance is sought must operate properly for the plant to continue operation. A hastily constructed barrier could easily cause operational interference. Obear-Nester has, the Agency feels, proposed a reasonable time for the planning and construction of abatement methods that will not interfere with the continued operation of the fans, but which will provide for complete compliance.

Weighing the likelihood of environmental damage against the hardship pleaded by Petitioner, we agree with the Agency's Recommendation and with the qualifications on it. As conditions, the Agency recommends that we impose a more detailed compliance schedule than proposed in the Petition; that we require the submittal of comprehensive reports on the compliance steps taken to date, and on the progress of its compliance program under the Variance. A standard certificate of compliance will be required, along with a performance bond of \$10,000.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Petitioner Obear-Nester Co. be granted a Variance from Rule 202 of Chapter 8: Noise Pollution, for its Lincoln, Illinois glass container manufacturing facility's four (4) Buffalo industrial exhausters fans, more fully described in the foregoing Opinion, for a period of one year from March 1, 1976 until March 1, 1977, subject to the following conditions:

1. To assure the completion of the work required under this Variance, Petitioner shall submit, in a form acceptable to the Environmental Protection Agency, a performance bond in the amount of Ten Thousand Dollars (\$10,000.00). Said bond shall be submitted within thirty (30) days of the date of this Order to:

Environmental Protection Agency  
Control Program Coordinator  
Division of Noise Pollution Control  
2200 Churchill Road  
Springfield, Illinois 62706

2. Noise or sounds emitted by the fans in question shall not be increased in intensity during the term of this Variance, so as to exceed the measurements taken by the Environmental Protection Agency on November 7, 1975.

3. Petitioner shall conform to the following schedule for the attainment of compliance by the subject fans:

a. By May 15, 1976: Employ the services of a noise consultant, person or firm under such contractual conditions as to require said consultant(s) to prepare a recommendation and conceptual plans for noise abatement by August 15, 1976, and to prepare detailed plans and specifications within forty-five days of being notified to do so by said Petitioner upon Petitioner's selection of one or more of the recommendations by said consultant.

b. By September 1, 1976: Choose one or more of the methods proposed and direct consultant(s) to submit detailed plans and specifications for noise abatement within forty-five days.

c. By November 1, 1976: Order all materials not presently on hand required by said detailed plans and specifications and contract for all specialized work not within the capabilities of Petitioner.

d. By December 1, 1976: Commence construction.

e. By January 15, 1977: Complete construction.

f. By February 1, 1977: Complete noise testing and such re-working as is required.

g. By March 1, 1977: Achieve compliance with Rule 202.

4. Petitioner shall submit written progress reports to the Environmental Protection Agency within ten (10) days of each of the dates specified in Paragraph 3 above.

5. Petitioner shall secure all applicable permits from the Environmental Protection Agency.

6. Petitioner shall report to the Agency within ten days of the Order herein as to the effectiveness of (a) the forklift and self-dumping Roura Hopper, which will be used to collect and transport cullet (rejected glass containers); (b) its loading dock noise abatement program; and (c) its program to abate noise from other sources by erecting barriers.

7. Sounds emitted by all sources at Petitioner's Lincoln, Illinois plant, other than said fans, shall at all times conform with Part 2, Chapter 8 of the Board's Rules and Regulations.

8. Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Noise Pollution Control, Enforcement Section, 2200 Churchill Road, Springfield, Illinois 62706, within twenty-eight (28) days after the date of the Board Order herein, a Certificate of Acceptance and Agreement to be bound to all the terms and conditions of the Variance, the form of said Certification to be as follows:

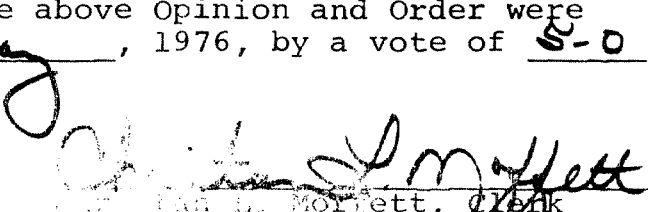
I, (We), \_\_\_\_\_ having read  
the Order of the Illinois Pollution Control Board  
in case No. PCB 76-67, understand and accept said  
Order, realizing that such acceptance renders all  
terms and conditions thereto binding and enforceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution  
Control Board, hereby certify the above Opinion and Order were  
adopted on the 20<sup>th</sup> day of May, 1976, by a vote of 8-0.

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