

ILLINOIS POLLUTION CONTROL BOARD

January 30 , 1973

MARQUETTE CEMENT MANUFACTURING CO.,)
)
 Petitioner,)
)
 vs.) PCB 72-397
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

Charles M. Jirauch, Attorney for Petitioner
Douglas T. Moring, Assistant Attorney General for the EPA

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

On October 5, 1972, Petitioner filed a request for extension of a variance from the Air Pollution Control Regulations previously granted by this Board in PCB 70-23 and extended in PCB 71-296.

Marquette is engaged in a modernization program to eliminate eight out-dated and uncontrolled kilns and associated equipment, and to install a new controlled kiln at Oglesby, Illinois. About 99% of the mechanical and structural work was completed through mid-September 1972 and the program was on schedule. The program had a capital outlay of \$16.5 million of which \$3.25 million was for air pollution control equipment. As part of the program, the prime contractor, Macdonald Engineering Company, had sublet a contract to Dietz Electrical Manufacturing Company of Milwaukee for panel boards and electrical control cabinets. Dietz was to have the equipment completed and on site during the first week of September 1972. Visits to the Dietz plant by Macdonald engineers, as late as August 23, 1972 indicated that Dietz was on schedule. It was subsequently learned on September 13, 1972 that Dietz had filed for bankruptcy on August 23, 1972 and all work on the Marquette equipment had ceased on that date.

Monetary subsidies and issuance of Macdonald purchase orders brought the resumption of work on the control equipment. The controls were finally received by Marquette on October 30, 1972, almost two months late. This two-month delay has caused a substantial upset in Marquette's construction schedule and is the reason for the variance request.

Since filing the request for extension, Marquette has decided, of its own volition, to completely shut down the eight old uncontrolled kilns upon completion of the new kiln. The completion date was estimated to be December 17 or 22, 1972. Since the old kilns were putting out 6 tons of particulate matter per hour this decision will result in a substantial reduction of contaminants to the atmosphere.

During the public hearing on November 22, 1972, Petitioner appeared to waive the requirement that this Board rule on its variance request in 90 days. The waiver was made upon the condition that it would "not reflect upon Marquette or in any way interfere with their ability to continue their program..." (R. 3). Although this form of waiver is not entirely satisfactory we believe it was effective to waive the 90 day requirement and in any event our decision to grant the variance removes the language of this waiver as an issue in the case.

Marquette was not at fault in its failure to meet the construction deadline and we will grant the variance extension.

It is the Order of this Board that Marquette be granted an extension of the variance granted in PCB 71-296 until April 6, 1973 subject to the following conditions: a) Marquette shall submit monthly progress reports to the Agency showing progress made toward the completion of the new #3 kiln, b) Marquette shall cause a stack test to be performed on kilns #1 and #2 by an approved independent testing service within 30 days of this Order. The Environmental Protection Agency shall be given 5 days notice so that it may witness the stack test. Results of the stack test shall be forwarded to the Environmental Protection Agency as soon as available. In the event that kilns 1 through 8 have not been shut down as estimated on December 17 or 22, 1972, Marquette shall continue in full force and effect the bond established by condition #4 as stated in PCB 70-23. Such bond shall be forfeited to the State of Illinois in the event that kilns 1 through 8 are operated in violation after April 6, 1973.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 30th day of January, 1973 by a vote of 3 to 0.

