

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1973

CONTINENTAL CAN COMPANY, )  
 )  
 Petitioner, )  
 )  
 vs. ) PCB 73-387  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

Joseph Wright, Jr., Attorney, on behalf of Petitioner.  
George Wolff and James Rubin, Assistant Attorneys General on  
behalf of Respondent.

OPINION AND ORDER OF THE BOARD (by Mr. Seaman):

On September 6, 1973, Petitioner, Continental Can Company, Inc., filed its Petition for Variance seeking variance from Pollution Control Board Regulations, Chapter 2, Rules 103(b)(2), 103(b)(6)(E), 104 and 205(f). A hearing was held in this matter on November 27, 1973.

Petitioner owns and operates, through its White Cap Division, a facility located at 1819 North Major Avenue, Chicago, County of Cook, Illinois. Said facility manufactures metal closures for glass containers. As an integral part of that activity, Petitioner maintains a lithography operation within the facility, which operation is the subject of its Petition.

The subject lithography operation consists of thirteen ovens, each emitting an average of 49.5 pounds per hour of organic material, which organic material is "photo-chemically reactive" as that phrase is defined by Pollution Control Board Rule 201. Petitioner has undertaken the installation of three incineration devices designed to bring the emission of organic material within the limits established by Pollution Control Board Rule 205(f). However, Rule 205(f) becomes effective on January 1, 1974.

Petitioner alleges that, through no fault or delay attributable to Petitioner, the installation of the three incineration devices cannot be completed until June 30, 1974. Petitioner, therefore, seeks a variance from Rule 205(f) until that date, alleging that the delay in installation was due to Petitioner's inability to acquire firm commitments for the fuel necessary to operate the incineration devices.

Because Petitioner cannot complete control of said organic emissions on or before the effective date of the limitations of Pollution Control Board Rule 205(f) as said date is established by PCB Rule 205(J)(2), Petitioner is unable to supply Compliance Programs and Project Completion Schedules conforming to PCB Rule 104(C)(2) and, lacking said Compliance Programs and Project Completion Schedules, Petitioner is unable to obtain an Operating Permit pursuant to the requirements of PCB Rule 103(b)(6)(E).

Petitioner alleges that the fuel (natural gas) is presently available; however, the delay in obtaining the allocation, from May of 1972 until June of 1973, has allegedly caused similar delays in Petitioner's construction program (R.2).

Petitioner notes for our consideration that upon the adoption of Rule 205(f), Petitioner had the option of converting its operation to the use of water-base paints. If Petitioner had elected to pursue said option, it would not be required to comply with the limits of Rule 205(f) until May 30, 1974 (R.71). Petitioner argues that it would have been a good deal less expensive to substitute water-base coatings than to install and operate incineration devices (R.71). However, Petitioner's witness Mr. James H. Lewis, plant manager, testified that Petitioner elected to install rather expensive thermal oxidation units as opposed to changing to water-base coatings because of the uncertainties involved in the use of heavily pigmented coatings (R.13).

The Agency position on this matter is that Petitioner should have completed construction and installation of the proposed equipment prior to the effective date of Rule 205(f) (January 1, 1974), and then wait until the requisite allocation of natural gas could be obtained, if said allocation had not been obtained during the construction and installation period.

On this point, Petitioner's witness, Mr. James H. Lewis, testified that installation and subsequent non-use of the proposed equipment for any extended period of time would result in contamination or possible damage to the said equipment due to condensation (R.21). This testimony was not rebutted by the Agency.

In order to provide gas to the proposed equipment, it is necessary that Petitioner convert its entire facility from low pressure to medium pressure gas lines. It is also necessary for Petitioner's supplier to extend new, medium pressure lines to Petitioner's facility. Petitioner's supplier, Peoples Gas, Light and Coke Company, has experienced difficulty in obtaining easements for its extension to Petitioner's facility and the final easement was not obtained until November 23, 1973 (R.59).

Petitioner estimates the cost of construction and installation of the proposed equipment to be \$600,000 (R.17). Petitioner states that 174 persons are directly employed in the subject lithography operation and the employment of an additional 919 employees is indirectly dependent upon the continued operation of said lithography operation.

We are disposed to grant Petitioner's request for variance; however, variance from Rule 205(f) shall be granted only until March 1, 1974.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that Petitioner, Continental Can Company, Inc., shall be granted a variance from Rule 205(f) of the Rules and Regulations of the Illinois Pollution Control Board until March 1, 1974.

Mr. Henss dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 20<sup>th</sup> day of December, 1974 by a vote of 4-1.

Christan L. Moffett