

ILLINOIS POLLUTION CONTROL BOARD

January 31, 1974

FORTY-EIGHT INSULATIONS, INC.)	
PETITIONER)	
)	
v.)	PCB 73-478
)	
ENVIRONMENTAL PROTECTION AGENCY)	
RESPONDENT)	
)	

VICTOR VON SCHLEGELL, PRESIDENT, in behalf of FORTY-EIGHT INSULATIONS INC.
 JAMES K. JENKS, II, ATTORNEY, in behalf of the ENVIRONMENTAL PROTECTION AGENCY

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

This action involves a request for variance from a Board Order dated March 22, 1973, in PCB 72-52. Relief is requested for six months to allow compliance with said Order and to permit continued operations of Wool Room #1. The Agency in its recommendation filed January 14, 1974, recommends a denial.

Petitioner owns and operates in the Village of North Aurora a facility for the production of mineral wool for the construction industry. Wool Room #1 consists of a cupola, wool collection chamber, curing oven, cooler, and cutting and packing equipment. Said facility processes 5,055 lbs/hr. of mineral wool fiber and 115 lbs/hr. of binder solids from slags and other mineral raw materials.

Petitioner alleges that its emissions range from 6.5 to 22 lbs/hr., and equipment installed to date has been very beneficial in reduction of emissions.

History:

On March 22, 1973, the Board found Forty-Eight Insulations to be in violation of Rules 2-2.11, 3-3.000 and 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution. The Order of the Board read in part:

- "1) Respondent (shall) submit a program for abatement of the polluttional discharges from its #1 Wool Room with-

in 60 days from the date hereof and cease and desist violation of the particulate regulations with respect thereto within 120 days from the receipt of this Order."

Petitioner alleges that "immediately upon receipt of the Board's Order, Petitioner commenced investigation, research, and engineering to comply with the Board's Order." An application for construction permit was filed on May 11, 1973, to allow installation of a custom spray scrubber. Petitioner proposes the following timetable for construction and installation:

Phase I: Extension and improvement of helix plus first stage skimmers in the helix shroud - December 1, 1973.
Phase II: Second stage skimmers above Phase I skimmers. Design contingent on results of Phase I - February 15, 1974.
Phase III: If required, mechanical driven moisture separator - March 15, 1974.

The Board's Order required completion of abatement facilities by July 20, 1973; therefore Petitioner proposes that a complete abatement program would take eight months longer or a total of about one year from the date of the original Order of PCB 72-52.

The Agency contends that Petitioner has not been diligent in its attempts, pointing out that the instant variance was not filed until November 13, 1973, or almost four months after the deadline in PCB 72-52. Petitioner had, however, pursued its program, and on September 21, 1973, had conducted a stack test to ascertain the results of its initial abatement attempt, that being a custom spray scrubber. Said test showed that while the scrubber was "very effective," it still did not bring Petitioner into compliance. Although the Board feels that Petitioner could have filed the instant variance Petition earlier, we feel that Petitioner's attempts to comply coupled with Petitioner's allegations that delay was caused by unanticipated design and construction delays, are a significant showing of good faith.

In ordering compliance within 120 days, the Board had no insight as to what type of abatement would be chosen or the complexity of installation. One of the main objectives of such an order is to move an emitter into action - the possibility of an extension is always there, and should be considered on its merits. In the instant case the Board feels that a total of one year is not an unreasonable time allotment to bring about compliance, when one considers the type of project required.

Hardship:

Petitioner alleges that denial of a variance would necessitate a shutdown of the facilities. The Board disagrees. A variance is a

shield from prosecution. However, a shutdown is an option open to Petitioner. In the event of a shutdown Petitioner alleges that a number of its employees would be laid off, and that its product is insulation and is thus important as an energy conservation medium. The Board finds that while those reasons are at best a very weak hardship argument, in light of the short duration of the variance it will suffice.

Environmental Impact:

The Agency contends that it has had "numerous" complaints from citizens living in the area and that many have opposed the granting of a variance. The Board feels that Petitioner's reductions to date should sufficiently curtail complaints, and that the nature of Petitioner's emissions are not of a toxic type. The Board further notes that in the original enforcement action, PCB 72-52, the Agency conceded that it had offered no evidence in support of a 9 (a) violation (Opinion PCB 72-52, Pg. 1).

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 be granted a variance from Board Order (1) of PCB 72-52 subject to the following conditions:

- 1) Time for compliance with Board Order #1 of PCB 72-52 shall be extended until March 15, 1974.
- 2) Petitioner shall send monthly reports to the Environmental Protection Agency detailing its progress in meeting the compliance plan, and a final report upon completion of its abatement project.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 31st day of January, 1974, by a vote of 5 to 0.

Christan L. Moffett