

ILLINOIS POLLUTION CONTROL BOARD

March 28, 1974

ILLINOIS CENTRAL GULF RAILROAD,            )  
  )  
  Petitioner,            )  
  )  
  v.                                    )  
  )  
  PCB 73-550  
  )  
ENVIRONMENTAL PROTECTION AGENCY,        )  
  )  
  Respondent.            )

James T. Bradley, Attorney for Illinois Central Gulf Railroad  
John T. Bernbom, Attorney for the EPA

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

Illinois Central Gulf Railroad requests variance from Rules 403, 404(f), 408(a) and 1002 of the Illinois Water Pollution Control Regulations for a period of one year. Petitioner owns and operates a facility known as the "Mechanical Facility at South Joliet" for the maintenance, repair, fueling, sanding and laundering of locomotives. The facility is located about 1/2 mile east of Illinois Route 53 and 1 mile north of Interstate 80 along the northern bank of Sugar Run Creek.

During normal operations Petitioner discharges 10 gallons of waste water per minute into Sugar Run Creek. This increases during and following rains. The waste water, consisting chiefly of oil and chemicals, results from oil spills and certain maintenance practices in addition to liquid waste generated in cleaning the locomotives. Chemicals in the waste water are primarily radiator treatment chemicals and cleaning agents. Petitioner states that an analysis of the waste water revealed: 40 mg/l oil, 60 mg/l BOD and 25 mg/l suspended solids.

The parties in this matter have presented a Stipulation of Facts from which we are to decide the case. The Agency recommends granting the variance, and after a review of this document we agree that Petitioner has met its burden of proof.

Illinois Central Gulf Railroad became the surviving corporation through a merger of Illinois Central Railroad and Gulf Mobile and Ohio Railroad in August 1972. Petitioner states that

during and for some period after the merger negotiations the "direction of railroad efforts to abate pollution at its newly acquired railroad facilities throughout Illinois and other States" were "substantially confused and disrupted". Essential abatement facilities were not included in the 1973 budget "because of additional time required to complete the then on-going facility-merger survey".

Consequently, Petitioner claims it was impossible to "retain a pollution engineering report, together with the preparation of plans, specifications and an estimate of project cost, and to contract for the project so as to both construct the facility and make it operational before December 31, 1973." Subsequent to the merger the following events occurred:

September-December 1972	Petitioner attempted to obtain a Refuse Act Permit or a Corps of Engineers Permit.
November 1972	Agency advised Petitioner of new Federal NPDES requirements.
March 1, 1973	Preliminary plans and cost estimates for proposed Joliet abatement facilities were completed.
August 1973	Agency was provided with copy of preliminary plans.
September 7, 1973	Petitioner provided Agency with copy of Project Completion Schedule for proposed waste treatment facility.
September 12, 1973	Petitioner filed application for construction permit for proposed waste treatment facility.
September 18, 1973	Agency was provided with copy of final plans and specifications for proposed treatment facilities.
October 18, 1973	Agency informed Petitioner that its Project Completion Schedule had been disapproved.
October 29, 1973	Petitioner informed Agency of plans to seek a variance since the treatment facilities could not be in operation by December 31, 1973.

December 4, 1973

Agency issued permit for construction and operation of the "Emergency Oil and Spill Containment and Treatment Facility for Joliet, Illinois".

Petitioner's "Emergency Oil and Spill Containment and Treatment Facility" plan will provide oil collection pans to collect spillage of fuel oil and other types of oil waste and a system for collecting and carrying waste water to a two cell lagoon system. The lagoon system will provide for containment and treatment of the waste water prior to discharge of the liquid into Sugar Run Creek. The Agency was of the opinion that the complexity of the construction project warrants the 15 months compliance schedule submitted by Petitioner.

Completion of the contract and construction phase of the project will take at least 12 months. Another three months is required after completion of construction before the system can be placed into operation. We were not told the specific need for the additional three months, but a review of the plans indicates that the time could be used for testing of electrical circuits, piping systems, and other start-up procedures. The Agency has approved the additional time period.

Petitioner claims that a denial of the variance would force Petitioner to shut the facility down or risk monetary penalties. A facility shutdown would severely disrupt maintenance practices since all other similar facilities operated by Petitioner are operating at capacity. Locomotives which are normally fueled and maintained at the Joliet facility would be taken elsewhere, resulting in a shortage of locomotives in the Joliet area, increased fuel usage for the extra distance travelled, and the serious disruption of a coal train operating between a southern Illinois coal mine and Plaines, Illinois. Elimination of freight car repair and maintenance could result in damage to the freight cars and increase the likelihood of derailments.

We believe the record in this case is sufficient to satisfy the requirements for the variance. Both parties recognize that the Board is limited to granting variances for a period of one year and that an extension of this variance may be required for an additional period of up to three months.

The parties say that a "performance bond is neither required nor recommended", but it is our custom to require the posting of bond for the more complex construction projects. This authority is derived from Section 36(a) of the Act. We shall require a bond in this case.

ORDER

It is the Order of the Pollution Control Board that Illinois Central Gulf Railroad is granted a variance from Rules 403, 404(c), 404(f), 408(a) and 1002 for its Joliet maintenance facility until March 28, 1975 for the purpose of construction and operation of the "Emergency Oil Spill Containment and Treatment Facilities" as presented in the petition for variance. This variance is subject to the following conditions:

1. Petitioner shall submit monthly progress reports to the Environmental Protection Agency. Said progress reports shall commence on April 28, 1974 and shall provide details of Petitioner's progress towards completion of the new waste treatment facilities.
2. Petitioner shall not increase the strength or quantity of discharges and shall take every reasonable measure to limit spillage and to contain discharges.
3. Petitioner shall, by April 28, 1974, post a bond in the amount of \$40,000 in a form acceptable to the Environmental Protection Agency, such bond to be forfeited in the event Petitioner fails to install the new waste treatment facilities by the end of the compliance schedule. The bond shall be mailed to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 28<sup>th</sup> day of March, 1974 by a vote of 5 to 0

Christan L. Moffett