

ILLINOIS POLLUTION CONTROL BOARD

U. S. INDUSTRIAL CHEMICALS COMPANY,))
a Division of National Distillers))
and Chemical Corporation,))
))
v.))
))
ENVIRONMENTAL PROTECTION AGENCY))

PCB 71-44

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT WE, U. S. Industrial Chemicals Company (the "Company"), and _____ (the "Surety"), are hereby held and firmly bound to the Environmental Protection Agency of the State of Illinois (the "Agency") in the sum of \$500,000.00, for the payment of which we bind ourselves and our successors and assigns.

The condition of this obligation is such that:

WHEREAS, an Order and accompanying Opinion has heretofore been entered in the above-entitled case (the "Order") by the Illinois Pollution Control Board (the "Board") granting the Company a variance to emit particulate matter, gases and other contaminants from sources described in the Order beyond the limitations prescribed in applicable rules and regulations and beyond the proscriptions of Section 9(a) of the Environmental Protection Act pending installation of certain control devices and facilities, which Order is by reference incorporated therein; and

WHEREAS, said Order was conditioned, among other things, upon the posting with the Agency by the Company of a bond in the amount of \$500,000.00, which amount shall be forfeited to the State of Illinois in the event that the Company shall fail to comply with any of the conditions of the Order or any of the conditions of this bond.

NOW, if the Company, its successors and assigns, shall:

1. Cease operation of the sulphuric acid plant by March 30, 1972;

AND

Install and have in operation by May 30, 1972, two additional electrostatic precipitators on its coal-fired boilers; or so operate said two boilers after May 30, 1972 so that emissions from said two boilers shall not exceed the allowable limits of the Rules and Regulations Governing the Control of Air Pollution.

2. Comply with all further conditions of the Order within the dates specified in the Order; and

3. Show this obligation as a liability in all of its corporate financial statements prepared for shareholders and in all of its corporate reports to regulatory agencies published hereafter; then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED THAT failure of the Company to comply with any term of this bond shall not result in any forfeiture if occasioned by Act of God or the public enemy, accidental fire or explosion, flood, war, riot, sabotage, accident, government priority or other action by any state or federal governmental authority or local governmental agency other than relating to pollution control, strike, slowdown, lockout, or work stoppage or labor trouble of any kind whatsoever, failure of supply of materials, parts, or equipment, or failure, delay, or refusal of any designer, fabricator, or supplier to design, fabricate, deliver or install as agreed any equipment specified herein, provided such failure, delay, or refusal is not due in whole or in part to fault of the company, or if occasioned by any other circumstance, whether of like character or different character from those enumerated above, which circumstance is beyond the reasonable control of the Company.

The Board shall be the determiner of any disputed facts arising hereunder, including but not limited to any issue of forfeiture which may arise. Should the Agency decide that grounds exist for a forfeiture of this obligation, the Agency shall notify the Company and the Surety by Certified Mail to the addresses listed below, whereupon the Company shall, within seven days after receipt of said notice, pay to the State of Illinois through the Agency, the amount of \$500,000.00; provided, however, that if the Company disputes any alleged forfeiture hereunder by filing, within seven days after receipt of said notice, a Petition for relief with the Board, any amounts to be paid hereunder shall not be due and payable until resolution of all issues of forfeiture by the Board; and provided further that no such legal proceeding may be brought by the Agency unless initiated within six months from the time of discovery of the grounds giving rise to such claimed forfeiture. Provisions of the Environmental Protection Act and Procedural Regulations of the Board regarding the conduct of proceedings before it shall govern the conduct of the disputed forfeiture hearing. Any determination by the Board pursuant to this instrument is subject to the right of review thereof as provided by law.

Notice to the Agency shall be to:

