

ILLINOIS POLLUTION CONTROL BOARD

October 18, 1973

MINERVA OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 73-284
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	
)	
OZARK-MAHONING COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 73-294
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by Mr. Henss)

Petitioners are two companies which produce fluorspar from their mines and mills located in Hardin and Pope Counties, Illinois. Together they produce about 55% of the total U. S. production of fluorspar. Discharges from their mines and mills contain concentrations of calcium fluoride which exceed the fluoride levels authorized in Rule 203(f) and Rule 408(a) of the Water Regulations and Rule 605 of the Mine Related Regulations of the Illinois Pollution Control Board. The EPA has denied operating permits for the reason that Petitioners have not submitted programs for achieving compliance with the Fluoride Standards. Petitioners stated that they can not submit such compliance programs because no economically proven technology exists to treat its plant discharges to the level which is required by our Regulation.

The two companies petition for variance from Rules 203(f) and 408(a) of the Water Regulations and Rule 605 of the Mine Related Regulations. The Agency states that variance should be denied since no definite compliance program and compliance dates have been presented by the companies. Since the implication is that compliance may never be achieved with the Fluoride Standards, the Agency states that variance is an improper remedy and that an operating permit should not issue. The Agency, however, states

that relief of some type should be granted to Petitioners.

The two companies now request leave to file in this proceeding a Proposed Amendment to Rules 203(f) and 408 for the purpose of changing the Fluoride Standard. The Agency recommends that we allow the motion and schedule hearings on the proposal to amend regulations.

Petitioners further request leave to file an appeal from the permit denials.

We will allow Petitioners to file in the pending proceedings their appeals from the denial of operating permits. Hearing on the permit appeals can be conducted along with the hearing on the variance petitions now pending. On August 16, 1973 at the first hearing both Petitioners waived their Statutory rights to a ruling within 90 days on the variance petitions. The waiver should be clearly stated in writing by Petitioners upon the filing of a permit appeal since there is the possibility of delay in the hearings on the permit and the variance, pending a decision on a Proposal to Amend the Regulations in question.

The Proposal to Amend the Regulations shall not be filed in the pending variance proceedings. Any such Proposal shall be docketed separately and the hearings on it shall be conducted separately and not in conjunction with the permit or variance hearings. The Proposal for Amendment of Regulation need not be accompanied by the 200 signatures which are referred to in our Procedural Rule 204 but should comply with other provisions of Board Rules.

ORDER

Motion for leave to file appeals herein from the denial of operating permits is allowed, conditioned upon an appropriate waiver of Environmental Protection Act, Section 38 and Section 40 or extension of time which will allow this Board sufficient time for ruling after consolidated hearings.

Motion for leave to amend the Variance Petition by proposing amendment of Rule 203 and Rule 408 of the Water Pollution Regulations is denied. Any such Proposal for Amendment of Regulations shall be submitted as a separate matter conforming with Statutory requirements and our Procedural Rules, except that the petition need not be signed by 200 persons.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 18th day of October, 1973 by a vote of 5 to 0.

Christan L. Moffett

