

ILLINOIS POLLUTION CONTROL BOARD

THE NESTLE COMPANY)
) PCB No. 70-22
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

OPINION OF THE BOARD (BY MR. LAWTON):

December 22, 1970

The Nestle Company, Inc. operates an instant tea manufacturing facility in Granite City, Illinois. At the present time, the manufacturing process causes emissions of approximately 21 pounds per hour of water-soluble tea and non-soluble dust, based on a production rate of 1,600 pounds per hour. Emissions permitted for such an operation are limited to 3.52 pounds per hour. (Rules and Regulations Governing the Control of Air Pollution 3-3.113; Chapter III Table 1). Petitioner's original application for variation received by the Board on October 8, 1970 requested a period of time until December 31, 1971, in which to install a secondary wet scrubber of the Joy Microdyne type which the evidence indicates would achieve approximately 98% efficiency in controlling emissions and would bring the Nestle operation well within the legal limits. Hearing was held on the Petition for Variance at Granite City, Illinois, on November 30, 1970. The Environmental Protection Agency submitted its recommendation, recommending allowance of the variation subject to the posting of bond equal to the cost of the control equipment proposed to be installed.

Petitioner employs 175 people at the Granite City plant. 95% of its instant tea production takes place at that location. The emissions are inert and non-toxic.

No one appeared in opposition to the proposed variation. The Chairman of the Granite City Air Pollution Control Board filed a letter received as Exhibit 5 requesting that any action of this Board be contingent upon Nestle complying with requirements of the Granite City Air Pollution Control Ordinance. The terms of the ordinance were not introduced in evidence at the Hearing although the letter indicates that the "Illinois Rules and Regulations" are incorporated in the ordinance. It would appear that the local regulations require a variance and reporting program comparable to that required under the Environmental Protection Act.

At the hearing, Petitioner stated that it had received a proposal from Hart-Carter Company for a dry-type scrubber which would

result in removal of particulate emissions at 98.83 efficiency and that the total cost of equipment and installation would be \$20,000.00 more than the wet scrubber originally proposed. Petitioner requested that this proposal be considered as an alternative to that originally specified. The Hearing Officer suggested that if the Hart-Carter dry-type scrubber was superior to the Joy Microdyne scrubber that it should be the basis of the variation request and that the Board should not be put in a position of selecting alternatives. Petitioner accordingly asked for and was given leave to amend its petition for variation to provide for the installation of the Hart-Carter Dry Process Dust Collector and to decrease the time in which the installation would be made from December 31, 1971 to a period of seven months from the granting of the variance.

By stipulation of the parties, the Hearing Officer was permitted to view the premises. The view included a thorough examination of the interior of the plant and the tea-drying facilities as well as the roof where the exhaust from the tea-making process is located. The tea is manufactured in a spray dryer approximately five stories in height, utilizing primary cyclones at the end of the spray-drying cycle. Two air streams are emitted carrying the effluent, now exhausted on the roof, which would be controlled by the proposed dust control equipment. It was the Hearing Officer's observation that the emissions, even if uncontrolled, are not unduly offensive, are virtually odorless and do not appear to have attributes of dirt or oil.

The record indicates that some time ago, Petitioner caused samplings of its emissions to be made by private consultants and was advised that the emissions did not constitute a violation of the Air Pollution Regulations. Inspection during the month of July, 1970 by representatives of the Environmental Protection Agency resulted in Petitioner retaining the firm of Ryckman, Edgerly, Tomlinson and Associates, whose report indicated the emissions above set forth would constitute a violation of the regulations. As a consequence of this report, Petitioner sought bids for suitable equipment to abate the emissions indicated and filed the variance proceeding which is the subject matter of this Opinion.

While the emissions from Petitioner's plant are unquestionably a violation of the law, it should be noted that this operation takes place in an area where air pollution from other manufacturing operations is a major problem. The emissions from the Nestle plant are extremely mild in consideration of the overall ambient air characteristics in Granite City. Nestle's property is located in an industrial area and does not appear to produce any substantial impact on any residential properties. It is believed that allowance of the variation would be in the best interests of the state and the municipality. The ultimate installation as proposed would be a step forward in an

area where much remains to be done. The Environmental Protection Agency's investigation indicates that while adjacent neighbors are not burdened by the plant's emissions, they would be pleased to have the operation brought into compliance.

The proposal of Hart-Carter indicates, and the evidence of the witnesses substantiates, that a seven-month period would be appropriate to fabricate, obtain and install the necessary equipment.

It is the Opinion of the Board that the Petitioner has sustained the statutory requisites for the granting of a variance. Requiring Petitioner to shut down its operation in lieu of permitting installation of the dry scrubber, as proposed, would constitute arbitrary and unreasonable hardship upon Petitioner, without sufficient corresponding benefit to the public. The tea-drying process is an essential part of the manufacturing operation and insistence on immediate compliance would necessitate a shut-down of the entire plant, the lay-off of 175 employees and the elimination from the market of Petitioner's product.

The foregoing opinion constitutes the Board's finding of fact and conclusions of law.

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD THAT:

1. A variance is hereby granted to The Nestle Company, Inc., Granite City, Illinois, expiring July 31, 1971, to permit emissions of particulate matter in excess of those permitted by the regulations during the installation of dust control equipment for spray dryer operation pursuant to dry scrubber proposal dated November 24, 1970, from Hart-Carter Company, and received in evidence as Petitioner's Exhibit B.
2. This variance shall be conditional upon the filing of a personal bond in the amount of \$60,000.00 with the Environmental Protection Agency to assure correction of the existing violation within the time prescribed. The face amount of the bond shall be reduced proportionately as the installation of the equipment progresses, pursuant to the certification by the Environmental Protection Agency as to the degree of completion. If Petitioner operates the facility after July 31, 1971, without having installed the equipment described in paragraph 1 of this Order, it shall forfeit the remaining face amount of the bond and shall be subject to such statutory penalties as are appropriate.

3. During the period that this variance is in effect, Petitioner shall not cause or allow any increase in the emissions of particulate matter in excess of that amount being emitted on the date of this Order.
4. Petitioner shall submit to the Environmental Protection Agency a monthly report, the first of which shall be received by February 1, 1971, stating the progress of its installation. The Environmental Protection Agency shall certify to the Pollution Control Board the degree and percentage of installation at which time the bond set forth in Paragraph 2 shall be reduced proportionately.

I concur:

David P. Cuppe
Richard J. Smith
Jacob D. Stungle
Franklin D. Smith
Samuel A. Clark

I dissent:

I, Regina E. Ryan, certify that the Board adopted the above Opinion this 22 day of December, 1970.

Regina E. Ryan
Regina E. Ryan
Clerk of the Board