

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1971

TAMMSCO, INC)
)
 v.) # 70-28
)
 ENVIRONMENTAL PROTECTION AGENCY)

Opinion of the Board (by Mr. Currie):

TammSCO processes silica for use in paint pigments, insulation and fiberglass, and the rubber industry (R. 12). Five tons of rock per hour are dried and ground to powder (R. 11-12). Despite two mechanical collectors removing perhaps 90% of the emissions (R. 25) the drier discharges about 21 pounds of silica dust per hour (R. 21, 28). The Rules and Regulations Governing Air Pollution (Rule 3-3.111) limit emissions from this size facility to 12 pounds per hour.

TammSCO bought this plant in December, 1969 (R. 13) and on June 29, 1970 filed a letter of intent to bring the plant into compliance (R. 44), pursuant to Rule 2-2.22. On July 1, 1970 the Environmental Protection Act became effective, requiring that a petition for variance be filed to obtain permission to continue emissions in excess of regulation limits while installing additional collection equipment. Such a petition was filed, the Agency filed its recommendation, and a hearing was held. Because the transcript would not have been available in time to permit an intelligent decision within the 90-day period prescribed by section 38 of the Act, the company waived its right to a decision within 90 days.

We think the variance should be granted, subject to the bond required by statute to assure performance. The harm that will be caused during installation is small; the emissions are only 21 pounds per hour (as compared with 3500 in Medusa Portland Cement Co. v. EPA, decided today), and no serious complaints have been unearthed (R. 47). The plant is in a town of 500 people (R. 11), and no one lives nearer than perhaps 200 yards from the plant (R. 31). The time requested is short: compliance is promised by July 1, 1971 by construction of a baghouse already ordered and scheduled for delivery June 18 (R. 15). Preparatory site work will be done in advance (R. 39), and installation will take only two man-days (R. 40). On completion emissions will be "not measureable" (R. 28).

On the other side of the balance, to deny the variance would close the plant and throw 23 people out of jobs, with adverse effect on the whole community (R. 11); Tammsco is the only industry in the community (R. 41) and are of only two suppliers of its product in the country (R. 19). The granting of some additional time to achieve compliance is necessary to avoid an unreasonable hardship.

Our only hesitation comes from the fact that the company requested an entire year from the time its intent letter was filed in June, 1970, and from the company's own testimony that its supplier "would have shipped it [the baghouse] at an earlier date had we asked them to " (R. 23). The reason for not asking was that "I was unable to get allocation of funds earlier than that date [June 1971, when delivery is to be made] from management end of the company" (R. 23). The reluctance of management to spend money for pollution control is no excuse for delay in compliance. Therefore had we examined this matter six months ago we should have insisted on a shortening of the variance period.

However, due to no fault of Tammsco, the case is only now ripe for disposition, and it seems pointless to insist on attempting to shorten the period at this late date. It is not clear that the supplier's schedule is flexible enough to permit acceleration today (R. 32), and under the plan the installation will be complete within five months. In view of the small quantity of emissions and the uncrowded nature of the neighborhood, it does not seem worthwhile to devote more effort now to trying to save a few weeks. The variance will be granted.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

After considering the record the Board hereby orders as follows:

1. Tammsco, Inc. may emit up to 21 pounds per hour of particulate matter from the drier of its silica plant at Tamms, Illinois, until July 1, 1971.
2. Tammsco, Inc. shall file with the Environmental Protection Agency, on or before March 15, 1971, a bond or other security in the amount of \$10,000, to be forfeited in the event the drier is operated in excess of the regulation limits after July 1, 1971.
3. The failure to file such security shall terminate this variance.