

ILLINOIS POLLUTION CONTROL BOARD
March 17, 1971

Glenbrook Laboratories)
)
 vs.) PCB 70-46
)
 Environmental Protection Agency)

Opinion of the Board (By Mr. Kissel):

On December 18, 1970, Glenbrook Laboratories (Glenbrook) filed a petition with the Pollution Control Board asking for a variance from the existing Ringelmann standards found in Rule 3-3.120. Glenbrook asks for the variance until the summer of 1971 until they can install a new boiler to replace two coal-fired boilers which are causing the smoke emission problem.

A hearing was held on this matter in Monticello on February 11, 1971. At that time, the Environmental Protection Agency ("Agency") filed its recommendation with the hearing officer. Essentially, the recommendation, which was made a part of the record, asks that the Board grant the variance requested by Glenbrook but limit the time of the variance to May 31, 1971. Further the Agency requests that Glenbrook post a performance bond in the amount of \$10,000 which would be forfeited if it is found that Glenbrook is in violation of the Act or the Regulations after the date of expiration of the variance.

Glenbrook Laboratories is a Division of the Sterling Drug Company. At the plant located in Monticello (which is the subject of this hearing) Glenbrook manufactures and packages a number of proprietary drug products, including Fletcher's Castoria, ZBT Baby Powder, and others. Glenbrook employs 90 people, all of whom come from the local area of Monticello and has a current monthly payroll of \$53,000. There are presently two coal-fired boilers operated by Glenbrook. One is a low pressure boiler which is used for comfort heating of the plant and the other is a high pressure boiler which is used to provide steam for sterilization needed in manufacturing and packaging the proprietary medicines.

In determining whether a variance should be granted to Glenbrook this Board must determine that failure to grant the variance would impose an "arbitrary or unreasonable hardship". In making that determination, the Board must, as we have previously said, decide whether operation of the plant at the levels of pollution indicated in the record and for the time requested would substantially outweigh any detriment to the public in allowing the continual operation of the plant. We find in this case that the variance should be granted on certain conditions outlined below, because not to do so would impose an arbitrary or unreasonable hardship on Glenbrook. The facts indicate that Glenbrook has a smoke emission problem, but no one in the community

is disturbed by it. In fact, there were five letters introduced into the record which complimented Glenbrook on its operations in Monticello. In addition, the City of Monticello passed a resolution on January 26, 1971, requesting us to allow the operation of the Glenbrook plant under present conditions until July 31, 1971. One witness testified that Glenbrook was immaculately clean. Further, not to allow the variance under the imposed conditions would mean a substantial economic loss to the community as well as to Glenbrook. As was stated, Glenbrook contributes \$53,000 to the economy of Monticello. Most of the employees (80%) live in Monticello itself. If we were to require that the boilers not be allowed to operate, this would mean, according to Glenbrook, that the plant would have to be closed, and 90 people would be out of work. Also, Glenbrook would lose the sales of the product it might have produced during that time, and the inventory of Fletcher's Castoria which has to be stored under elevated temperature conditions. In balance then, we feel that the people of the State of Illinois are better served in allowing the variance.

In its recommendation, the Agency requests that the variance be granted until May 31, 1971. The testimony of Mr. Walters would indicate that that date, at least as to the high pressure boiler, is not a realistic one. We feel that based upon the record the variance granted by this Board should allow the operation of the low pressure boiler until May 31, 1971, and the operation of the high pressure boiler until July 31, 1971.

One other Agency recommendation made by the Agency was the posting of a performance bond by Glenbrook. We feel that not only is this a sound recommendation, but is required by the Environmental Protection Act. Section 36(a) provides in part:

"If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this Act or of the Board regulations, the Board shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed." (Emphasis supplied)

Under the circumstances of this case, this Board feels that a \$10,000 bond will assure compliance with the order and completion of the installation of the new boilers.

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

ORDER

After due consideration of the record, it is the order of the Board that the request of Glenbrook Laboratories for a variance be granted subject to the following conditions:

1. The high pressure furnace may emit smoke in excess of the regulations until July 31, 1971.
2. The low pressure boiler may emit smoke in excess of the regulations until May 31, 1971.
3. Glenbrook shall post with the Environmental Protection Agency by March 31, 1971, in a form agreeable to the latter, a bond or other security in the amount of \$10,000, to assure compliance with this order.
4. Failure to comply with the conditions of this order shall terminate this variance.

I, Regina E. Ryan, Clerk of the Pollution Control Board,
certify that the Board adopted the above opinion and order this
17th day of April, 1971.


