

ILLINOIS POLLUTION CONTROL BOARD
April 5, 2001

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| PLEXUS SCIENTIFIC CORPORATION, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 01-120 |
| |) | (Variance – Air) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by M. McFawn):

On March 5, 2001, Plexus Scientific Corporation (Plexus or petitioner) filed a petition for a five-year variance from the prohibition against open burning found at 35 Ill. Adm. Code 237.102. The petition requests the variance to allow the open burning/“flashing” of buildings and process equipment located at the load/assemble/package area (LAP) of the former Joliet Army Ammunition Plant (JOAAP) site in Will County, Illinois. As Board regulations require, the “[o]pen burning of wastes creating a hazard of explosion, fire or other serious harm” may only be permitted through the granting of a variance. 35 Ill. Adm. Code 237.103. Petitioner requests a hearing in its petition. Also before the Board today are petitioner’s March 23, 2001 motions for expedited review and for site visit, and the Illinois Environmental Protection Agency’s (Agency) response to petitioner’s motion for site visit.

The Board has to date received three public comments in support of this variance. The Board recognizes that the decontamination of the LAP area is a prerequisite to other restoration efforts currently underway at the JOAAP, and encourages the swift and effective restoration of this area to a productive use. However, as further explained below, the Board today finds Plexus’ petition deficient and orders petitioner to file an amended petition by April 20, 2001, to address these deficiencies.

PETITION DEFICIENCIES

Section 104.204 of the Board’s procedural rules lists the content requirements of variance petitions filed with the Board. 35 Ill. Adm. Code 104.204. The Board finds that the petition fails to adequately address all of the requirements of Section 104.204, and is therefore deficient. Pursuant to Section 104.208, the Board may either order petitioner to supplement the information contained in its petition, or dismiss the petition for lack of sufficient information. 35 Ill. Adm. Code 104.208. At this time, the Board will issue an order requesting more information.

The Board finds the petition deficient for the following reasons, and orders Plexus to

file an amended petition containing the information as required below:

Nature and Amount of Emissions for All Sites

Section 104.204(b) requires a petitioner to provide, in pertinent part:

A complete and concise description of the nature of petitioner's activity that is the subject of the proposed variance, including . . . (8) The nature and amount of emissions, discharges or releases of the constituent in question currently generated by the petitioner's activity. 35 Ill. Adm. Code 104,204(b)(8).

The petition proposes to decontaminate 11 sites at the JOAAP through open burning/"flashing." The petition also states that it may be "necessary to decontaminate concrete or conduct unexploded ordnance clearance" from six other sites. Pet. at 6.¹ The petition is deficient because it only provides estimated emission information for one site.

For the proposed decontamination of all sites other than Site L7 (including information pertaining to decontamination or clearance activities at Sites L1, L2, L3, L11, L34, and M6), petitioner must provide the number of open burning/"flashing" events per site, and the estimated emissions per site. In addition, for the proposed decontamination of all sites (including information pertaining to decontamination or clearance activities at Sites L1, L2, L3, L11, L34, and M6), petitioner must provide: the estimated annual emissions given the proposed schedule of two to three sites per year; the expected frequency of the open burn/"flashing" events if three sites are decontaminated in one year; the estimated hazardous air pollutants that would be regulated under Section 112(b) of the federal Clean Air Act (42 U.S.C. 7412(b)); and the maximum number of sites that would be decontaminated in one year.

Environmental Impact of All Proposed Activities

Section 104.204(g) in pertinent part requires a petitioner to include the following:

A description of the environmental impact of the petitioner's activity including:

- 1) The nature and amount of emissions, discharges, or releases of the constituent in question if the requested variance is granted, compared to that which would result if immediate compliance is required;
- 2) The qualitative and quantitative description of the impact of petitioner's activity on human health and the environment if the requested variance is granted, compared to the impact of

¹ Plexus' March 5, 2001 petition will be referred to as "Pet. at ___."

petitioner's activity if immediate compliance is required. Cross-media impacts, if any, must be discussed. 35 Ill. Adm. Code 104.204(g).

The petition is deficient because it fails to describe the environmental impact of the proposed activity. The petition summarily states that the “decontamination is not expected to have a measurable environmental impact,” and that the threat posed by the residual explosive waste at the JOAAP “outweighs the minimal environmental harm that may be created by safely eliminating the explosive hazards through open burning/‘flashing.’” Pet. at 17. The petition also includes a “Summary of Site Risks.” See Pet. at exhibit Q. While it does present various risk levels posed for exposure to contaminated soils, surface water, sediments, and groundwater at the JOAAP, the petition is deficient in that it fails to describe any environmental impact from air emissions.

Accordingly, petitioner must: a) describe the qualitative and quantitative impact of the estimated air emissions from the proposed open burn/“flashing” activities on human health and the environment beyond the risk assessment provided in Exhibit Q; and b) provide technical support for the statement “[t]he decontamination is not expected to have a measurable environmental impact.” Pet. at 17. Such support would include the evaluation of the air quality impacts of the estimated annual air emissions from the proposed decontamination of all proposed and potential sites.

In order to facilitate an expedited hearing schedule, Plexus must file an amended petition by April 20, 2001. In any case, if an amended petition curing these deficiencies is not filed within 45 days of the date of this order, this petition will be subject to dismissal. The filing of an amended petition restarts the statutory time clock of Section 38(a) of the Environmental Protection Act (Act). 415 ILCS 5/38(a) (1998).

Other Points Needing Clarification or Supplementation

The Board has identified other areas of the petition that, while sufficient to meet the requirements of Section 104.204, need clarification or supplementation. If possible, petitioner should include responses to the following in its amended petition. Petitioner should in any event be prepared to address these issues at hearing. If any of the requested information is not available, petitioner should so state in its amended petition.

Section 104.204(b) of the Board’s procedural rules requires a variance petition to include a “complete and concise description of the nature of petitioner’s activity that is the subject of the variance, including: 1) The location of, and area affected by, the petitioner’s activity” 35 Ill. Adm. Code 104.204(b).

The petition states that “[a]pproximately 1200 people live within three miles of the JOAAP.” Pet. at 5. Petitioner must explain the significance of using three miles as the distance to quantify the number of people that may be affected by emissions from the open burning/“flashing” activities, as well as the full number of people residing within three miles

of the JOAAP LAP outer boundaries. Petitioner must also identify the nearest residence, business, park, and school within the affected area. Petitioner must provide additional information regarding the current and future uses of the Midewin National Tallgrass Prairie, the Deer Run Industrial Park, and the Abraham Lincoln National Cemetery, as well as the types and number of people who would be allowed in the restricted and unrestricted areas on open burning/“flashing” days.

Section 104.204(b)(4) requires the petition to identify all “environmental permits held by petitioner for the activity which may be affected by grant of the variance.” 35 Ill. Adm. Code 104.204(b)(4). Although the petition states that petitioner itself does not hold any environmental permits which might be affected, petitioner is a federal contractor. Petitioner should address whether any federal agency holds any environmental permits that might be affected by granting this variance, such as any NPDES permits that could be impacted by water used to suppress the open burning/“flashing” activities, or any existing air permits or permit conditions that could be exceeded by the potential emissions.

TIMING ISSUES

Petitioner’s motion for expedited hearing is granted in that hearing will be held as expeditiously as possible. In consultation with the parties, the hearing officer has scheduled a tentative hearing date of May 2-3, 2001. Although the Board has not formally accepted this matter for hearing, the Board will allow this hearing to proceed so long as an amended petition is filed in a timely fashion. The filing of the amended petition required by today’s order will restart the Board’s decision timeline clock. 35 Ill. Adm. Code 104.232. However, the Board will undertake to render a decision in late June or early July if petitioner files its amended petition no later than April 20, 2001, and the Agency files its recommendation no later than April 26, 2001.

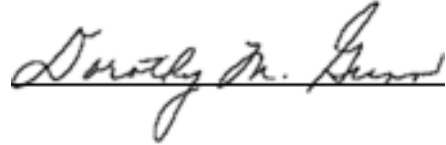
Finally, to avoid any uncertainty about whether a hearing will be held, the Board advises the parties and the public that the Board in its discretion concludes that a hearing is advisable in this petition even if petitioner withdraws its hearing request. 35 Ill. Adm. Code 104.234(c). Hearing will be held on any amended petition petitioner files consistent with this order.

SITE VISIT

While the Board appreciates the request for site visit, given the time constraints of the Board’s expedited review, the Board must deny the request for site visit at this time.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of April 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board