

ILLINOIS POLLUTION CONTROL BOARD  
October 14, 1971

SPARTAN PRINTING CO. )  
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 )  
 v. ) # 71-19  
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 ENVIRONMENTAL PROTECTION AGENCY )

Supplemental Opinion and Order of the Board (by Mr. Currie):

Spartan was given until July 1, 1971 to complete Phase I of its wastewater treatment facilities (Spartan Printing Co. v. EPA, # 71-19, June 23, 1971). On June 29, however, the company requested a brief extension because of delays caused by unanticipated foundation conditions, unusually wet weather, and failure of equipment to meet specifications. We asked for the Agency's recommendation, which was that the \$200,000 bond we required posted be forfeited and that a hearing be held.

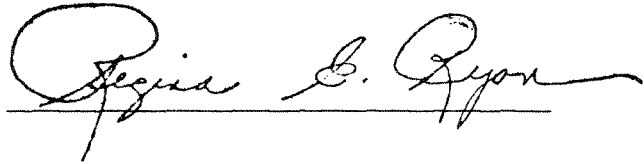
Spartan has also filed a proceeding for judicial review of our decision, and, under Supreme Court Rule 335, has asked us to modify and to stay our order in certain respects. The Agency has not responded to this latest motion.

We agree with the company that a \$200,000 forfeiture would be an excessive imposition for the brief and unintentional setback suffered in attempting to meet the Board's order. The first stage was completed August 4, scarcely a month behind schedule; the second stage has not been delayed at all; it is not the company's fault the delay occurred. We see no need for a hearing; the delay was trivial and the facts have not been disputed. We grant the extension to August 4, 1971, and since that date is past we remove the provision requiring that the bond cover the installation or operation of Phase I. We will not, however, lift the requirement of a bond to secure Phase II, as that the statute flatly requires.

We are also asked to stay enforcement of our order, pending review, with respect both to the bond and to the penalty we imposed as a condition of the variance. We agree as to the penalty, for we see no point in requiring the money to be paid now if it may have to be repaid after judicial review. The purposes of the order will be as well served by later payment if the appeal fails. But this is not the case with the bond, for a bond will do no good if it is filed after the date of compliance; it must be filed now if it is to serve its purpose.

Accordingly the June 23 order is hereby modified by extending the Phase I date to August 4, 1971, and by eliminating the requirement that the bond cover Phase I; and the penalty provision in paragraph 3 of that order is hereby stayed pending judicial review, on condition that a bond to secure payment of the penalty in the event of an adverse judicial decision is filed with the Environmental Protection Agency within 15 days after receipt of this order. In other respects the motion for modification and stay is denied.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Supplemental Opinion of the Board this 14 day of October, 1971.



A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.