

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1983

TEXACO, INC.,)
)
) Petitioner,)
)
) v.) PCB 81-96
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ROY M. HARSCH (MARTIN, CRAIG, CHESTER & SONNENSCHNEIN) APPEARED
ON BEHALF OF PETITIONER.

PETER ORLINSKY (ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
ENFORCEMENT PROGRAMS) APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board on a permit denial appeal filed by Texaco, Inc. (Texaco) on June 9, 1981. On March 18, 1981 Texaco requested that the operating permit for its incinerator be renewed. That permit had formerly been issued by the Agency on July 5, 1979 and was due to expire on June 11, 1981. The Agency denied that request on May 5, 1981. The Agency's record on the appeal was filed September 3, 1981. After numerous postponements, the parties were ordered to hearing by Board Order of October 27, 1982. Hearing was held on December 6, 1982, where the parties proposed an agreement consisting of four permit conditions.

The Texaco incinerator at issue is located at its Lockport Refinery. It has a rated capacity of 78,000 barrels of crude oil per operating day. Production at the refinery ceased as of June 1, 1981 and to date the refinery is "mothballed". However, certain operations, including the wastewater treatment plant continue to operate. The treatment plant is needed to treat remaining flows, wastewater resulting from cleaning and flushing various units and tanks, and any contaminated surface runoff. The contested operating permit involves the incinerator used to thermally decompose sludges removed in the treatment of industrial refinery process water and contaminated surface runoff, and sludges taken from tank bottoms and process vessel cleanings.

Before being charged to the incinerator, the sludge is gravity thickened and dewatered by centrifuging to reduce its volume. Texaco estimated that approximately 5,083,000 gallons of

sludge were incinerated in 1978, but was unable when filing the petition to estimate the volume which would be treated once the refinery was mothballed. Texaco averred that the normal composition of the material fed to the incinerator is 76.1% water, 6.6% oil, 17.35% solids. The Agency estimated that the incinerator disposed of sludges containing 12% to 17% solids, (Permit Analysis, April 28, 1981). Thus, the incinerator at the Lockport Refinery constitutes a liquid waste incinerator.

The incinerator was originally installed in 1970. It was permitted in 1973 and 1979. The last permit included a special condition that the particulate matter concentration in the effluent stream be tested within one year of that permit's issuance. Texaco conducted that test on June 9, 1980 and submitted the results on June 24, 1980. Shortly thereafter Texaco modified its scrubber, so it conducted a second series of stack tests on February 26, 1981. These results were submitted with the permit renewal request.

Based on the second series of tests the Agency determined that the average emission rate of emissions from the incinerator to be 0.215 grain per standard cubic foot (gr/SCF). The Agency premised its May 5, 1981 denial on the fact that this average was greater than the 0.08 gr/SCF allowed for incinerators burning more than 2000 pounds per hour pursuant to Rule 203(e) (2) of Chapter 2.

Texaco argues that the Agency's denial was in error because Rule 203(e)(2) is not applicable to its liquid waste incinerator given the two 1976 cases of Hyon Waste Management Services Inc. v. IEPA, PCB 75-413, 21 PCB 75 (April 8, 1976) and Hyon Waste Management Services, Inc. v. IEPA, PCB 76-166, 24 PCB 419 (December 16, 1976). With those cases the Board found that Rule 203(e)(2) is not applicable to liquid waste incinerators. Furthermore, since this appeal was filed, the decision in Alburn, Inc. v. IEPA, PCB 80-189 and 80-190, February 17, 1982 again held that Rule 203(e)(2) is not applicable to liquid waste incinerators. That decision had been appealed; oral arguments in Illinois Environmental Protection Agency v. Pollution Control Board, and Alburn, Inc., No. 82-666 were heard by the First District Appellate Court on December 2, 1982. No decision has been issued to date by that Court.

At hearing, the applicability issue was not argued by either party. Instead the parties offered four conditions they found mutually acceptable. (R.4.) As no evidence or argument in support of the conditions has been given the Board, the Board declines to "place its imprimatur" on them and to order their inclusion in a permit (See Minn. Mining & Mfg. Co. v. IEPA, PCB 77-71, May 5, 1983). In fact, one of those conditions was that the permit be reopened should the Agency's appeal in the First District be successful. Not only is this condition unnecessary, but is also indicative that the parties do not seek an adjudicated resolution, but rather a settlement.

However, since the appeal has not been withdrawn the issue now before the Board is whether or not this liquid waste incinerator must comply with Rule 203(e). Having twice held that Rule 203(e)(2) is not applicable to liquid waste incinerators, and finding no reason to overturn the prior decisions or to distinguish this case, the Board finds the Agency's decision not to renew the operating permit because the incinerator's emissions did not comply with Rule 203(e)(2) limits, to be in error.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that the decision by the Illinois Environmental Protection Agency of May 5, 1981, to deny Texaco, Inc. an operating permit for its liquid waste incinerator is reversed, and that the Illinois Environmental Protection Agency issue an operating permit, consistent with this Opinion and conditioned to assure compliance with the Environmental Protection Act and applicable Board regulations.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 5th day of July, 1983 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board