

THE ENVIRONMENTAL APPEALS BOARD
OF THE STATE OF DELAWARE

In The Matter Of:)
)
DEPARTMENT OF NATURAL RESOURCES) Introduction, Findings of Fact,
AND ENVIRONMENTAL CONTROL) The Law, Decision and Order
TEMPORARY EMERGENCY VARIANCE NO.)
79-A-6)

INTRODUCTION

1. The hearing was held on Wednesday, October 3, 1979 before the Environmental Appeals Board in the Cabinet Room, Townsend Building, Dover, Delaware at 10:00 a.m. to consider an appeal filed by Getty Refining and Marketing Company appealing a decision dated July 18, 1979 by Acting Secretary John E. Wilson, III. Also appealing the decision of the Secretary in issuing Temporary Emergency Variance No. 79-A-6(T), was Delaware Citizens for Clean Air, Inc.

2. Conducting the hearing were Thomas J. Kealy, Chairman of the Environmental Appeals Board and Wheeler K. Neff, Deputy Attorney General. Members of the Environmental Appeals Board also at the hearing were Mr. Joseph Melson, Mrs. Phyllis Shabinger, Mr. Ray Woodward, Mr. Clifford H. Hubbard, Jr., Mr. Earl Tull and Ms. Eveylyn Greenwood.

3. Appearing on behalf of the Secretary of the Department of Natural Resources and Environmental Control were Robert R. French, Manager, Air Resources, Division of Environmental Control and Robert Thompson, Deputy Attorney General.

4. Appearing on behalf of the Delaware Citizens for Clean Air, Inc. were Jacob Kreshtool and Arthur Seibel.

5. Appearing on behalf of the Getty Refining and Marketing Company (hereinafter "GRMC") were R. W. Ladd, Specialist, Air and Water Conservation and Charles F. Richards, Jr., Esquire, and Stephen E. Herrman, Esquire.

FINDINGS OF FACT

All exhibits introduced into the record are incorporated herein.

1. Item No. 1 on page 5 of the Order of the Department of Natural Resources and Environmental Control seeks to impose the requirement that GRMC begin development of parallel or redundant facilities which will recover sulfur from the refinery's sour-feed gases during any downtime of the present sulfur recovery plant at the designed rate of the existing sulfur recovery facilities. The cost of such parallel or redundant facilities is estimated to be approximately 16 million dollars.

2. Two of the four recommendations of the Environmental Appeals Board in its decision dated July 7, 1978 including the installation of a fourth spare blower in the BSRU and the installation of additional instrumentation to monitor the Claus unit and the BSRU to improve Getty's ability to foresee and prevent catastrophic failures have been implemented by GRMC. GRMC offered to follow through on the fourth recommendation of the Board by submitting detailed operating instructions for the BSRU, but such offer was declined by the Department at this time.

3. Based on figures submitted by the Department and GRMC a standby sulfur removal facility would have been put to use

only 1.5 percent to 5 percent of the time during the period 1957 through 1978 as a means of avoiding the additional omission associated with claus plant shut-downs.

5. During recent claus plant shut-downs, GRMC recovered 83 percent of the processed sulfur by partial use of the sulfur recovery system during claus regeneration.

6. Moreover, the Wellman Lord H₂S₀₄ facility due to go on line by the end of this year, further adds to GRMC's sulfur recovery capability during future claus plant downtime.

THE LAW

Under the provisions of 7 Del. C. §6008(a) any person whose interest is substantatively effected by any action of the Secretary may appeal to the Environmental Appeals Board within twenty (20) days after the Secretary has announced the decision. Appeals of a decision of the Secretary shall be conducted in accordance with 29 Del. C. §6606 and the regulations promulgated pursuant to Section 6010. Pursuant to Section 6008, the Board may affirm, modify or reverse the decision of the Secretary.

DECISION AND ORDER

It is the decision of the Board that the decision of the Secretary in granting TEV No. 79-A-G(T) to GRMC is affirmed except that paragraph 1 on page 5 of the Secretary's Order is hereby reversed, for the following reasons.

There is insufficient evidence in the record before the Board to enable it to affirm the Secretary's apparent re-

quirement that GRMC establish a redundant 16 million dollar sulfur removal system to be used during the downtime of the existing sulfur removal system facility.

The Board takes note of the steps that GRMC has taken to reduce the impact on omission standards of claus plant outages. In sharp contrast to GRMC's zero percent sulfur recovery rate during plant shut-downs of a year ago, it is now conceded by GRMC that partial operation of the sulfur recovery system is possible during claus unit regeneration with a minimum recovery of 80 percent of the processed sulfur during the 1.5 percent to 5 percent of the time that the claus unit is out. Because of this significant increase in the downtime sulfur recovery rate, the imposition of a completely redundant sulfur recovery unit appears unjustified at this time. Moreover, the addition of the Wellman Lord plant should further reduce the increased omissions during unit shut-downs.

Nevertheless, the Board is not unmindful of the trend of increasing frequency with which GRMC has sought temporary emergency variances from the Department because of malfunction of the sulfur recovery unit. The Board expects GRMC to continue to take whatever reasonable steps that are necessary including the implementation of advancements in technology to reduce the frequency and impact of future temporary emergency variances. If, in future months, these sulfure recovery plants of GRMC are not proven to be increasingly reliable, partial or complete redundancy of the sulfur recovery process may be necessary.

Wheeler K. Neff
Wheeler K. Neff
Deputy Attorney General

Thomas J. Keay 11/7/79
Chairman

Phyllis G. Schabinger

Ray K. Woodward

DATED:

Cliff H. Hubbard, 11/5/79

Cathy H. Greenwood

Eve B. Tull

Joseph B. Melton

