

THE ENVIRONMENTAL APPEALS BOARD
OF THE STATE OF DELAWARE

In the Matter of:)
DEPARTMENT OF NATURAL RESOURCES)
AND ENVIRONMENTAL CONTROL TEMP-) INTRODUCTION, FINDINGS OF
ORARY EMERGENCY VARIANCE NO.) FACT, THE LAW, DECISION
78-A-4) AND ORDER

INTRODUCTION

1. A hearing was held on Wednesday, June 28, 1978, before the Environmental Appeals Board in the Center Conference Room, Highway Administration Building, Dover, Delaware at 10 a.m. to consider an appeal filed by the Delaware Citizens for Clean Air, Inc. and Jacob Kreshtool appealing the decision dated May 17, 1978 by Austin P. Olney, Secretary, Department of Natural Resources and Environmental Control granting Temporary Emergency Variance No. 78-A-4.

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 and Mr. Clifton H. Hubbard, Jr.

3. Appearing on behalf of the Secretary of the Department of Natural Resources and Environmental Control were, Thomas Smith, Deputy Attorney General, Robert R. French, Manager, Air Resources, Division of Environmental Control and Alan A. Simpson, Resources Engineer.

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

5. Appearing on behalf of the Getty Refining and Marketing Company (hereinafter Getty) were R. W. Ladd, Specialist, Air and Water Conservation and Stephen E. Herrmann, Esquire and Roderick R. McKelvie, Esquire.

FINDINGS OF FACT

All exhibits introduced into the record are incorporated herein.

1. Temporary Emergency Variances were granted by the Department of Natural Resources and Environmental Control to the Getty Refining and Marketing Company on September 24, 1973, October 30, 1973, December 16, 1974, May 9, 1975, September 9, 1975, December 12, 1975, March 17, 1976, January 17, 1977, March 3, 1977, September 17, 1978 and May 17, 1978. Of the Temporary Emergency Variances issued by the Department, six appear to directly involve either the Claus Unit or the Beavon-Stretford Unit (hereinafter referred to as BSRU).

2. R. W. Ladd of the Getty Refining and Marketing Company testified that the cause of the problems with the Claus Unit and the BSRU were not clearly identifiable.

3. On the basis of the recent past performance record of the Claus Unit and the BSRU and the inability of Getty to identify the specific cause of failure in the two units, it is reasonable to assume that future failures of the Claus Unit and BSRU will occur unless additional safeguards are taken.

THE LAW

Under the provisions of 7 Del. C. §6008(a), any person whose interest is substantially 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 a Secretary shall be conducted in accordance with 29 Del. C. §6606 and the Regulations promulgated pursuant to §6010. Pursuant to §6008, the Board may affirm, modify or reverse the decision of the Secretary.

DECISION AND ORDER

It is hereby ordered that the decision of the Secretary of the Department of Natural Resources and Environmental Control dated May 17, 1978, issuing Temporary Emergency Variance No. 78-A-4 is affirmed subject to the following modifications. It is hereby ordered that the Secretary shall review the reports to be submitted to the Department by Getty on August 1, 1978 for two consecutive three-month intervals from the date of submission to determine compliance with Section 3 of Regulation IX and Section 2.1 of Regulation XIV of the Department Regulation governing the control of air pollution for the sulfur recovery Plant. At the stated intervals, the Secretary should confirm compliance with the Department Regulations and determine that the Claus Unit and the BSRU are operating normally. It is further ordered that before the issuance of any future Temporary Emergency Variance to Getty, the Secretary should review, with the idea of imposing, the

following four preconditions: (1) a fourth spare blower be installed in the BSRU; (2) additional instrumentation be installed to monitor the Claus Unit and the BSRU to improve Getty's ability to foresee and prevent catastrophic failures; (3) a spare catalyst bed be installed with appropriate piping, in the Claus Unit to allow continuous operation during changeovers, and (4) detailed operating instructions for the BSRU be submitted to the Department.

Thomas P. Keagy 6-30-78
Chairman

Phyllis G. Schabinger

Joseph B. Melson

Ray K Woodward

Cliff H Hubbs
7/7/78

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Dated: 7/7/78