



RCRA Permit Appeal Fact Sheet

1987

FACILITY: Erieway, Inc. (Erieway)
Bedford, Ohio
OHD 055 552 429
RCRA Appeal No. 87-11

PETITIONER: Erieway

PETITION FILED: October 23, 1987

STATUS OF PETITION: See Permit Appeal Status Report

ISSUES:

- Joint permitting
- Miscellaneous other issues (compliance with 40 CFR Part 264 standards)

Summary of Petition:

Erieway raises issues that relate to the joint permitting status of the facility and compliance with Part 264 requirements.

- **Joint Permitting.** Erieway contends that compliance with the Federal permit will cause Erieway to violate State law.
 - Although Ohio is not authorized for the base RCRA program, Ohio does have its own State statutes and regulations which apply to all hazardous waste management facilities in the State. Specifically, Erieway would have to submit for approval to the Ohio Hazardous Waste Facility Board a permit modification application and revised permit for capital improvements Erieway plans to construct pursuant to its Federal permit.
 - Initiation of construction activities to comply with the Federal permit prior to State approval would violate State regulations. Delay in initiating construction, however, would cause Erieway to be in violation of its Federal permit. If that occurs, Erieway contends that it would be required to begin closure activities pursuant to 40 CFR Sections 265.112(d) and 265.113.
 - Erieway requests that in the absence of joint permitting, EPA amend the permit compliance schedule to allow Erieway to operate while awaiting a final decision from the State permitting authorities on its Part B application.



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- **Compliance with 40 CFR Part 264 Standards.** Erieway contends that Condition VII (compliance schedule) of the permit does not provide adequate time for Erieway to modify and improve its facility as necessary to bring the facility into compliance with 40 CFR Part 264 standards, particularly those standards resulting from HSWA-mandated changes (e.g., new tank system standards, new closure and corrective action requirements). The petitioner contends that the permit schedule of compliance should be amended to allow Erieway adequate time to obtain financing necessary to construct \$3 million in planned capital improvements over the next two years, and to complete construction of these modifications.
- Erieway argues that these changes could not be made during interim status, since the value of the changes (i.e., \$3 million) is equal to the replacement cost of the entire facility. 40 CFR Section 270.72 sets a limit of 50 percent of reconstruction costs for allowable changes during interim status.

BEFORE THE ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:

Erieway, Inc.

Permit No. OHD 055 522 429

RCRA Appeal No. 87-11

ORDER

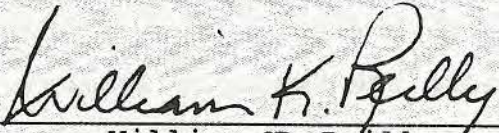
On September 25, 1987, Region V issued a permit to Erieway, Inc. under the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 U.S.C.A. §§6901-6992k, for Erieway's hazardous waste management facility in Bedford, Ohio. The permit imposes requirements under the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), and under the non-HSWA portion of RCRA. On October 22, 1987, Erieway submitted a petition under 40 C.F.R. §124.19 seeking review of certain non-HSWA permit conditions. (The petition does not challenge the HSWA portion of the permit.)

Shortly thereafter, the proceedings were stayed so that the parties could attempt to settle the appeal informally. During the pendency of the stay, the State of Ohio received authorization under RCRA §3006(b) to administer its State hazardous waste program in lieu of the non-HSWA portion of the federal program. The Ohio Hazardous Waste Facility Board subsequently issued an operating permit to the facility that parallels and is consistent with the non-HSWA portion of the federal RCRA permit subject to this appeal.

In view of these developments, the parties have jointly moved that this proceeding be remanded to the Region with instructions that the Region revoke the non-HSWA portions of the federal RCRA permit, thereby mooted the issues raised by Erieway's Petition for Review. The motion is hereby granted, and the case is remanded to Region V for revocation of the non-HSWA portion of Erieway's federal RCRA permit.

So ordered.

Dated: **SEP 12 1991**



William K. Reilly
Administrator

CERTIFICATE OF SERVICE

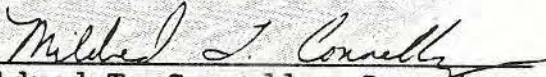
I hereby certify that copies of the foregoing Order in the matter of Erieway Incorporated, RCRA Appeal No. 87-11, were sent to the following persons in the manner indicated:

By First Class Mail,
Postage Prepaid:

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Dated: SEP 13 1991


Mildred T. Connelly, Secretary
to the Judicial Officer