

ILLINOIS POLLUTION CONTROL BOARD
October 19, 1983

OLIN CORPORATION,)	
)	
Respondent.)	
)	
V.)	PCB 83-44
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer)

On September 21, 1983 Olin filed a Motion for Rehearing on the variance petition denied on August 18, 1983. Among other arguments, Olin addressed the Board's concern about ground level concentration of sulfur dioxide had the variance been granted. Olin however did not inform the Board if they are currently burning Illinois coal. If not, and should Olin switch to Illinois coal due to a Variance, the Board also needs to know what are the consequences and how would compliance be achieved should the petition for exemption concurrently filed, be denied. In order to address the first issue further and the second regarding a compliance plan the motion for rehearing is granted.

Olin argues that Dr. Sievering's letter should not be a part of the record in this matter since he was not subject to cross-examination at hearing as required by the Board's Procedural Rules at 35 Ill. Adm. Code 103.203. However, Section 103.204(d) provides that

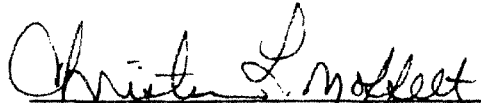
Relevant scientific or technical articles, treatises or materials may be introduced into evidence subject to refutation or disputation through any introduction of comparable documentary evidence or expert testimony.

As stated in the Opinion, Dr. Sievering's letter and study were sent to the Hearing Officer and copies to Olin's attorneys, the Board, and the Agency attorneys. Through the Board's inadvertence during its office move and hearing officer error, these documents were not made part of the record pursuant to Section 103.204 prior to hearing. They were made a part of the record in the Opinion and Order of August 18, 1983. That was in error because at the time of hearing Petitioner had no reason to respond. Since rehearing is being granted, Petitioner now has opportunity

to refute or dispute the study. Therefore, the error is corrected and the documents are accepted under Section 103.204. Hearing shall be expeditiously scheduled and held.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 14th day of October, 1983 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board