

ILLINOIS POLLUTION CONTROL BOARD
March 17, 1977

OLIN CORPORATION (EAST ALTON),)
)
) Petitioner,)
)
)
) v.) PCB 77-56
)
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by Mr. Goodman):

Olin Corporation (Olin) filed its Petition for Review and/or Variance on February 18, 1977, asking the Board to review the factual and legal determinations of the Agency in imposing conditions upon Olin's NPDES permit No. IL 0000230. In the alternative, Olin requests the Board grant variance from applicable regulations.

In Environmental Protection Agency v. Peterson/Puritan, Inc., PCB 75-303 (December 18, 1975), the Board, after entertaining briefs from both parties concerning the issue of whether the Board has jurisdiction for enforcement complaints alleging violations of NPDES permits, said:

It is the Opinion of the Pollution Control Board (Board) that prior to the State's assumption of administrative authority for the NPDES permit system under the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, this Board lacks jurisdiction to adjudicate cases involving either the failure to possess an NPDES permit or operation in violation of the terms and conditions of such a permit.

Although Peterson/Puritan involved an enforcement action with regard to an issued NPDES permit, and the instant case involves the

Illinois Environmental Protection Agency (Agency) certification of Olin's NPDES permit, the Board's finding in Peterson/Puritan will be extended to this case.

Olin cites Section 40 of the Environmental Protection Act (Act) which provides for a hearing and review by this Board of the Agency's refusal to grant a permit under Section 39 of the Act. Section 39(b) of the Act authorizes the Agency to issue NPDES permits upon authorization by U.S. EPA, which authorization Olin admits has not been granted. Olin claims it has no other forum in which to obtain a hearing for the purpose of contesting the conditions imposed by the Agency in Olin's new NPDES permit. However, the Board finds that until such time as the Administrator of the United States Environmental Protection Agency approves and delegates to the State of Illinois authority to administer the NPDES permit system, it is without jurisdiction to review the conditions imposed by the Agency upon its certification of a NPDES permit pursuant to Section 4(m) of the Act. Olin's Petition for Review is therefore dismissed.

Olin's alternative petition for variance is totally inadequate. The Board, therefore, strikes the petition but grants Olin leave to file a new petition for variance.

IT IS SO ORDERED.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 17th day of March, 1977 by a vote of 4-0.


Christian L. Moffett, Clerk
Illinois Pollution Control Board