

ILLINOIS POLLUTION CONTROL BOARD
July 24, 1980

SHELL OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 79-166
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by D. Satchell):

On June 12, 1980 the Environmental Protection Agency (Agency) filed a motion to dismiss the variance petition filed August 17, 1979 by Shell Oil Company (Shell). The petition requests a variance from Rule 501 of Chapter 9: Special Waste Hauling Regulations. Rule 501 provides for the form of manifests and prescribes rules on record-keeping, access to records and reporting. The petition requests a variance only for internal waste movements at Shell's petroleum refinery at Wood River. The Agency requests dismissal because of a Board decision holding that waste movements across a public highway between parts of a single facility are not subject to Chapter 9 (The Eureka Company v. EPA, PCB 79-117, 35 PCB 325, September 6, 1979). However, Shell states that its trucks move "on the public roads" and that part of its facility is located "approximately one mile from the main refinery property." The shipments are between "contiguous and non-contiguous parts" of the refinery (Pet. 1, 2). Shell's situation is beyond the scope of the Eureka exception. [See also 45 F.R. 33,066, 33,075, May 19, 1980; 40 C.F.R. Part 260.10(a)(48)]. The motion to dismiss is denied.

The Board on its own motion has examined the petition for sufficiency. The Board notes that Shell's cost estimate may now be deficient in that it does not take into account that Shell may be required to comply with federal manifest requirements even if granted a variance from Chapter 9. The Board also notes that Shell has not requested a variance from Rules 301 and 302 which prescribe delivery and acceptance of special waste without a manifest. The petition is unclear as to the extent of the variance requested from Rule 501. The manifest which Shell presently uses appears to conform with Rule 501(A) and the definition of "manifest," subject to the Agency's authority to prescribe the form (Pet. Ex. B). It is furthermore unclear why Shell cannot utilize a single manifest to satisfy the Agency and for its own purposes. The petition will

be subject to dismissal unless an amended petition addressing the noted deficiencies is filed within forty-five days of the date of this Order.

IT IS SO ORDERED.

Mr. Dumelle concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 24th day of July, 1980 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board