

ILLINOIS POLLUTION CONTROL BOARD
February 27, 1992

MARATHON OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 91-173
) (Variance)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board on a February 7, 1992 motion for reconsideration filed by Marathon Oil Company (Marathon); Marathon requests that the Board reconsider its denial of variance in this matter, as issued on January 9, 1992.

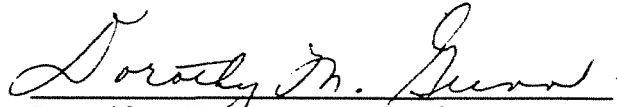
On February 13, 1992, Marathon also filed a motion for leave to file the affidavit in support of its motion for reconsideration. On February 24, 1992, the Illinois Environmental Protection Agency (Agency) filed its response in opposition to the Marathon's motions for reconsideration and leave to file, accompanied by a motion to file instanter. The Board grants the Agency's motion to file its response instanter.

The Board grants the motion for reconsideration. The Board first addresses the motion for leave to file the affidavit, as the affidavit relates to the motion for reconsideration. Marathon asserts that the affidavit is presented "primarily for the purpose of clarifying [Robert Wallace's] earlier testimony [given] during the hearing". The Agency objects to the affidavit, stating that any new allegations and arguments were not produced by Marathon prior to or at hearing, and that as a result, the Agency is not able to cross-examine the witness. The Board finds that the Agency's argument has merit; Marathon's motion for leave to file the affidavit is denied.

The Board further finds nothing in Marathon's reargument that persuades it to alter its final order in this matter.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 27th day of February, 1992, by a vote of 7-0.



Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board