

ILLINOIS POLLUTION CONTROL BOARD
November 3, 1988

IN THE MATTER OF:)
)
PROPOSED AMENDMENT TO)
35 ILL. ADM. CODE 212.209,)
VILLAGE OF WINNETKA) R86-41
GENERATING STATION)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a September 7, 1988 motion for reconsideration and stay filed by the Village of Winnetka. John H. Leslie, a resident of Winnetka who objected to Winnetka's petition for a site-specific rule, filed his response in opposition to the motion for reconsideration and stay on September 20, 1988. On September 22, 1988 the Board granted the Illinois Environmental Protection Agency's (Agency) motion for extension of time to respond. The Agency filed its response in opposition to Winnetka's motion on October 27, 1988.

On November 2, 1988, Winnetka filed a motion to defer ruling on its motion for reconsideration. In its motion to defer ruling, Winnetka notes that it has filed a petition for variance, and that present indications are that the variance will be uncontested. Winnetka states that if variance is granted, it contemplates reliance upon the variance rather than reliance upon any appeal of the rulemaking. Thus, Winnetka asks the Board to defer action on the motion for reconsideration until final action is taken on the variance petition. However, this rulemaking and the pending variance petition are two separate proceedings, and the Board will treat them as such. The motion to defer ruling is denied.


Winnetka seeks reconsideration of the Board's August 4, 1988 Opinion and Order denying Winnetka's request for a permanent site-specific rule governing particulate emissions from its electric generating plant. Alternatively, Winnetka requests a 33-month stay of the effective date of the general rule to allow construction of control equipment. The Board has reviewed the arguments raised by Winnetka in support of reconsideration, but finds no reason to modify its August 4 Opinion and Order. The Board specifically affirms that prior Opinion and Order, and denies the motion to reconsider on its merits. Likewise, the Board will not stay the effect of the general rule in order to allow Winnetka to construct control equipment. As both the Agency and Mr. Leslie point out, the proper manner in which to request an exemption to allow time to come into compliance with a regulation is by petition for variance pursuant to Title IX of the Environmental Protection Act. (Ill. Rev. Stat. 1987, ch. 111^{1/2},

par. 1001 et seq.) As previously noted, on October 17, 1988 Winnetka did file a petition for variance (PCB 88-164), which is presently set for hearing on December 5, 1988. Thus, Winnetka is already proceeding in the proper fashion. The motion for stay is denied.

IT IS SO ORDERED.

R. Flemal was not present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 3rd day of November, 1988, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board