

ILLINOIS POLLUTION CONTROL BOARD  
February 25, 1988

SOURS GRAIN COMPANY, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 85-190  
 )  
 ) ILLINOIS ENVIRONMENTAL )  
 ) PROTECTION AGENCY, )  
 )  
 ) Respondent. )

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon Petitioner's February 2, 1988 filing of an Amended Petition For Extension Of Variance. Respondent filed a timely Motion To Strike on February 10, 1988. The Motion To Strike is granted for the reasons set forth below.

Petitioner commenced this action on November 7, 1985, requesting variance from 35 Ill. Adm. Code Sections 212.462(b)(1)(a) and (c) and 212.426(d)(3)(a); or in the alternative requesting that the grain handling regulations be deemed invalid as applied to Petitioner; or in the alternative requesting a finding that Petitioner's current control measures have achieved an equivalent level of control. On December 9, 10, and 16, 1986, public hearings and confidential hearings were held providing information related to the variance request, the regulations, Petitioner's financial capacity, environmental impacts, standards, feasibility of compliance, etc...

The recent filing of February 2, 1988 contains new information concerning financial arrangements between Petitioner and certain creditors. This information is material on the issue of Petitioner's ability to afford structural plant modifications which, it is argued, would enhance compliance with the regulations.

The recently submitted data is unattested, and comes too late to be admitted in these proceedings. Hearings were scheduled and conducted; all material and relevant evidence was presented and proffered at hearing. Post hearing briefs were presented and filed in March of 1987. The evidentiary portion of this matter is closed.

The Agency's Motion To Strike is granted; the additional information will not be considered. Notwithstanding, the Board

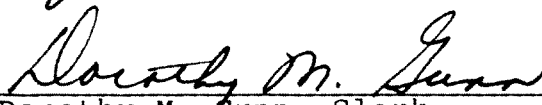
does not agree that Petitioner's filing constitutes an abuse of process, as alleged in the Agency's Motion To Strike.

The Board intends to issue a final order with the evidence and arguments on file. If Petitioner feels that data contained in the recent filing warrants new hearings, it may withdraw the current variance petition and file anew. But this Docket is closed.

If the Board does not receive a Motion To Withdraw on or before March 30, 1988, this Board will issue its final decision shortly thereafter.

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 25<sup>th</sup> day of February, 1988 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board