

ILLINOIS POLLUTION CONTROL BOARD  
February 10, 1983

WILL COUNTY PRODUCE COMPANY AND	)	
S & T COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 82-129
	)	
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Anderson):

On January 24, 1983 the Company moved for reconsideration of the Board's Order of January 13, 1983 granting an 18-month variance from certain noise rules. On February 7, 1983 the Agency moved the Board to grant the full 5 year variance requested by the Company. The motion for reconsideration is denied, but the Board will supplement its remarks concerning the nature of the forms of relief available to the Company in its situation.

Variance relief under the Act contemplates that during the variance period the polluter will come into full compliance with applicable regulations. Site specific regulations, on the other hand, acknowledge that the general rules cannot and should not be met by a particular source, and establish limitations appropriate to the individual situation.

The Company here does not seek a variance to gain additional time to achieve compliance. Rather, it seeks a 5 year "waiver of enforcement" on the grounds that its noise violation is de minimis and it has expended substantial sums to lower its noise emissions. Presumably, assuming no change in its situation, the Company would apply for another 5 year waiver at the end of that period, and another, and another, based on the same arguments. The Act does not allow for the granting of such "waivers of enforcement for de minimis violations".

It is regrettable that the Company has misconstrued the PCB 77-133 stipulation relating to variance relief. The Board hopes that it has now been made clear that the Company's options are to achieve compliance during the 18-month variance period (although, of course, further variance relief may be sought if unavoidable compliance delays should occur), to seek a site-specific rule change, or to take its chances on the filing and results of future enforcement actions for even de minimis violations of the general rule.

IT IS SO ORDERED.

Board Member Nels Werner and Chairman J.D. Dumelle dissented.

I, Chrsitan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 15<sup>th</sup> day of February, 1983 by a vote of 3-1.

  
 Christian L. Moffett, Clerk  
 Illinois Pollution Control Board