

ILLINOIS POLLUTION CONTROL BOARD  
November 1, 1979

CITY OF STERLING, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 79-169  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

On August 21, 1979 Petitioner filed for a variance from the limitations for cyanide in its NPDES Permit No. IL0031259 until March 31, 1980 or until Lawrence Brothers, a metal plating industry, has a pretreatment system on line and operational. The Agency has noted informational and technical deficiencies in the petition and recommends that the petition be denied. No hearing was held.

In its Recommendation of October 16, 1979, the Agency stated that sufficient information has not been supplied by Petitioner to enable the Agency and the Board to address the substantive merits of Petitioner's request.

Petitioner does not describe the quantity and types of materials used in the process or activity for which the variance is requested. Nor is a full description of the particular process or activity given in which the material is used as required by Board Procedural Rule 401(a)(3). Data are not provided describing the extent of cyanide discharge in excess of permitted limits (other than approximately 50% of the time) as required by Rule 401(a)(5). An assessment, with supporting factual information as to environmental impact of the variance required by Rule 401(a)(7) has not been included. Furthermore, no interim discharge limitations, compliance monitoring or enforcement schedules, or any other specific measures to be taken during the period of variance have been described. The City merely stated that it would require the industry to operate its present pretreatment facilities as effectively as possible. The requisite description of specific measures to be taken during the period of variance which should include specific performance timetables and standards to be imposed on Lawrence Brothers, Inc. by Petitioner has been omitted.

The Agency further notes that an ascertainable time limit for relief has been omitted. Board Rule 401(a)(1) requires "a clear and complete statement of the precise

extent of the relief sought". The requirement is not met by Petitioner's statement that the variance relief is to continue "until March 31, 1980, or until Lawrence Brothers' new pretreatment system is on line and operational."

Although the Agency has recommended that the Petition for Variance be denied for failure to include sufficient information, the Agency suggested as an alternative that the Board order Petitioner to amend its Petition to include the needed information.

Section 38 of the Environmental Protection Act states that the Board is to take final action upon a variance request within 90 days after the filing of the petition. Since Petitioner could not reasonably be expected to amend its petition within the period of time remaining, the Board will dismiss this action and grant leave to re-file. Should any new proceedings be instituted, Petitioner is urged to include Lawrence Brothers, Inc. as co-petitioners.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that Petitioner's request for a variance from the limitations for cyanide in its NPDES Permit No. IL0031259 be dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4<sup>th</sup> day of November, 1979 by a vote of 4-0.

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