ILLINOIS POLLUTION CONTROL BOARD March 11, 1976

ALTON BOX BOARD CO., Petitioner,)))	
v.)))	PCB 75-496
ENVIRONMENTAL PROTECTION AGENCY,)	
Respondent.)	

ORDER OF THE BOARD (by Mr. Zeitlin):

The Petition for Variance in this matter was received by the Board on December 22, 1975. On January 8, 1976, the Board entered an Interim Order consolidating this matter with an enforcement action, EPA v. Alton Box Board Co., PCB 75-508, filed by the Attorney General on December 31, 1975. The statutory decision period on the Petition for Variance (PCB 75-496) is March 21, 1976. However, the consolidated cases were set for public hearing on April 22, 1976.

On March 9, 1976, the Board received a "Motion for Interim Variance" from Alton Box Board Co. (PCB 75-496), and an accompanying document entitled, "Waiver." In the Motion, Alton asks that the Variance granted by the Board in PCB 74-491 (March 26, 1975; May 22, 1975) be extended on an interim basis from the present expiration date of April 6, 1976 until May 20, 1976. Alton states that this additional period will allow the Board sufficient time to review the entire record in the consolidated cases (PCB 75-496 and 75-508) before the Board meeting scheduled for May 20, 1976.

Alton expressly conditions its "Waiver" of its right to a decision in PCB 75-496 on a Board grant of its requested Interim Variance.

Alton's attempt to require such a grant is wholly unacceptable under these circumstances. The grant of any Variance requires that the Petitioner prove, as a minimum, that $\overline{(1)}$ failure of the Board to grant the requested Variance would work an unreasonable hardship on Petitioner; (2) on balance the grant of a Variance will not unduly harm the environment or the public health; and (3) Petitioner is proceeding under a compliance plan to achieve compliance with the provisions from which a Variance is sought. Alton has failed to sufficiently prove these matters.

As a result, we are unable to grant the requested Interim Variance and, therefore, take the following actions:

- 1. The January 8, 1976 Interim Order of the Board consolidating PCB 75-496 with PCB 75-508 is reversed. That portion of the Order setting PCB 75-508 for hearing will, however, remain in effect.
- 2. Alton Box Board Co.'s request for Variance in PCB 75-496 is dismissed without prejudice, for the reasons stated above.

IT IS SO ORDERED.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 11-1 day of 1976, by a vote of 4-0.

Christan L. Moffett Clerk
Illinois Pollution Control Board