

ILLINOIS POLLUTION CONTROL BOARD
July 17, 1975

CITY OF CARLYLE, ILLINOIS,)
 Petitioner,)
)
 v.) PCB 75-253
)
ENVIRONMENTAL PROTECTION AGENCY,)
 Respondent.)

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

This matter comes before the Pollution Control Board (Board) upon the City of Carlyle's (Carlyle) amended variance petition for their coal fired boiler No. 1 from Section 9(a) of the Act and Rules 102, 103(b)(2), 104, 3-3.112, 203(g)(1)(B), 203(i)(4), 204(c)(1)(A), and 204(h)(2) of the Air Pollution Regulations.

Carlyle's original petition (PCB 75-165) was dismissed on May 15, 1975 for inadequacy. The amended petition has not cured the defects in the original petition. Indeed, it states that "there should be little or no operation of the Boiler (p. 10)" and "Operation of the Boiler is not anticipated...(p. 9)" and "...the boiler should not be needed, in other than very extraordinary, near disaster conditions (p. 9)." The Board will not grant variances where there is no likelihood that the variance will be used.

The Petition will be dismissed since it has not been shown that there is any likelihood that the variance will be used. Petitioner is not currently in violation of any Rules or Regulations and we can only speculate on the possibility of such a violation in the future. We could indulge in similar speculation for most of the businesses in Illinois. The variance procedure was not intended for such remote possibilities and we have no alternative but the dismissal of this action without prejudice. State of Illinois, Department of Health, Manteno State Hospital v. EPA, PCB 74-352 (1974).

Additionally, the Board will not grant a variance where the Petitioner fails to undertake a program which would result in compliance with the regulations. See Rule 401(viii).

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

ORDER

It is the Order of the Board that the petition of the City of Carlyle, Illinois, be and is hereby dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 17th day of July, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board