

ILLINOIS POLLUTION CONTROL BOARD
September 29, 1975

MONSANTO COMPANY,)
)
) Petitioner,)
)
 vs.) PCB 75-331
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by Mr. Henss):

On September 15, 1975 the Agency filed a Motion to Dismiss. Essentially the Agency contends that the Agency is prohibited by law from issuing an operating permit unless the Petitioner proves that it is in compliance with the Regulations or obtains a variance; that in this particular instance there is "no question that Petitioner is in violation of Rule 204(c)(1)(A)", Air Pollution Regulations and that therefore the appeal of the permit denial should be dismissed.

We agree that the Agency is prohibited by law from issuing an operating permit unless the permit applicant is in compliance with the Statute and Regulations or has obtained an appropriate variance. In this particular case, Monsanto has requested a variance which has been docketed as PCB 75-330 and has been consolidated with this permit appeal. Under these circumstances we will not dismiss the permit appeal at this time. Failure of Monsanto to obtain variance from a valid SO₂ Regulation would necessitate a dismissal of the permit appeal but this is a question which could await the decision of the Board following a hearing of the consolidated cases.

The Motion to Dismiss is denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted the 29th day of September, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board