

ILLINOIS POLLUTION CONTROL BOARD
May 22, 1975

R. FOX, LTD.,)
Petitioner,)
)
v.) PCB 75-212
)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,))
Respondent.)

ORDER OF THE BOARD (by Dr. Odell)

On May 21, 1975, R. Fox, Ltd. filed a Petition For Variance with the Illinois Pollution Control Board (Board). Petitioner sought a variance from Rule 204(c)(1)(A) of the Air Pollution Regulations (Chapter Two) to continue to operate its coal-fired boilers in excess of the standard of 1.8 pounds of sulfur dioxide per million BTU input.

Additional information is needed before the Board can consider the merits of the Petition. First, in Train v. Natural Resources Defense Council, Inc. 43LW 4467 (April 15, 1975) the United States Supreme Court held that states can grant variances from their Implementation Plans provided that the national ambient air quality standards are not violated in the area affected by the variance. No data, such as are collected by the Illinois Environmental Protection Agency, have been submitted to show whether the area in which Petitioner is located is in compliance with the ambient air quality standards for sulfur dioxide. Second, additional information is needed to support the conclusion on page two of the Petition that "Our operating cost is figured so close that it would be impossible to absorb this added expense." Third, Petitioner should supply additional information to show that other means of compliance are not feasible. Fourth, Petitioner does not state the length of time for which the variance is sought.

Petition For Variance filed May 21, 1975, is inadequate. Petitioner is requested to file an Amended Petition For Variance within 45 days of the adoption of this Order. The requirement for final Board action under Section 38 of the Illinois Environmental Protection Act shall run anew from the time of the filing of the Amended Petition. Failure to file the required information within 45 days shall make the Petition For Variance subject to dismissal on grounds of inadequacy.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 22ND day of May, 1975, by a vote of 5-0


Christan L. Moffett, Clerk
Illinois Pollution Control Board