

ILLINOIS POLLUTION CONTROL BOARD
May 29, 1975

AMCO ENGINEERING COMPANY,)
)
Petitioner,)
)
v.) PCB 75-134
)
ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Zeitlin):

The Petition for Variance in this matter was filed on March 28, 1975. Thereafter, on April 4, 1975, the Board entered an Interim Order requiring that Petitioner Amco Engineering return with more information to satisfy the requirements of Procedural Rules 401(a)(iii), (iv), and (v). On May 16, 1975, Petitioner submitted to the Board an Amended Petition for Variance.

On the face of the Amended Petition, it would appear that Petitioner is attempting in good faith to comply with the applicable Procedural Rules of this Board. However, the requirements for a variance petition have changed since the April 4, 1975 "more information" Order was issued by the Board. The United States Supreme Court handed down its decision in Train v. Natural Resources Defense Council, 43 U.S.L.W. 4467 (U.S., April 16, 1975), requiring a showing that the grant of a variance by this Board will not result in a violation of the national ambient air quality standards, or in a failure to maintain those standards.

Petitioner does state in its Amended Petition that, "granting of this variance would produce no injury to the public." That simple statement is not sufficient to meet the requirements of the Train decision. For that reason, the Amended Petition in this matter is inadequate. A second Amended Petition shall be filed with the Board within 45 days of the date of this Interim Order correcting that deficiency. Failure to timely file such a second Amended Petition shall render this matter subject to dismissal for inadequacy. The 90 day decision period set by statute shall run from the date of filing said second Amended Petition.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Interim Order was adopted on the 29th day of May, 1975 by a vote of 5 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board