

ILLINOIS POLLUTION CONTROL BOARD  
January 10, 1974

SHELL OIL COMPANY  
(Wood River)

v.

ENVIRONMENTAL PROTECTION AGENCY

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

PCB 73-116

ORDER OF THE BOARD (by Mr. Dumelle):

On November 6, 1973 Shell filed a Motion for Leave to file a Motion for Reconsideration by November 22, 1973. The Board granted this motion on November 8, 1973. On the same date a Motion for Reconsideration was filed. On November 28 an Amended Motion for Reconsideration was filed with a supporting affidavit.

On December 18, 1973 the Environmental Protection Agency filed a Response recommending a grant. The issue is then whether the affidavit supplies enough information to overturn the October 4, 1974 Opinion and Order of the Board denying the variance without prejudice.

We find that the affidavit, although helpful, does not answer all of the Board's objections listed in the original opinion. And in fact it raises additional questions. The affidavit supplies additional effluent data for the months of June 1973 through November, 1973 inclusive. These data were not available to the Board as of the hearing date of June 29, 1973. To reconsider on the basis of new and additional evidence is not then a reconsideration but a new consideration or in other words, a new matter. We feel it preferable here to begin a new proceeding with all new and additional information presented therein rather than to attempt to repair an old proceeding decided upon the record before us at that time. The public is better served by the procedure of starting anew.


The affidavit seems to be internally contradictory. In Paragraph 5 the difficulty of reliably measuring below 0.10 mg/l of cyanide is alleged. And yet in Paragraph 10 the affidavit states that levels of 0.0035 mg/l of cyanide have been actually analyzed. If these latter levels have actually been measured at

1/30 of the level at which good results are obtainable what accuracy can they have? We feel that these questions raised (both technical and procedural) require a new proceeding to handle.

The Motion for Reconsideration is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 10<sup>th</sup> day of January, 1974 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board