

purposes of appealing certain conditions attached thereto. Consequently, petitioner needs no variance for protection against an enforcement action for operating without a permit."

We believe this is a proper statement of the situation and, accordingly, deny the variance. Whatever petitioner may do in the operation of its facilities, it presently possesses an operating permit albeit one that it does not like, and its appeal to this Board does not nullify the permit. Should it operate in violation of any of its terms, conceivably it would be vulnerable to an enforcement action by the Agency. However, the validity of the permit and the conditions imposed by it are the subjects of the pending appeal proceeding before this Board, and no variance has been sought with respect to the terms and conditions contained in it.

Accordingly, the petition for variance 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 23rd day of August, 1973 by a vote of 3-0



Christan L. Moffett, Clerk
Illinois Pollution Control Board