

ILLINOIS POLLUTION CONTROL BOARD  
January 18, 1979

BEKER INDUSTRIES CORPORATION, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 78-9  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by Mr. Goodman):

On January 16, 1979, Beker Industries Corporation filed a Petition for Variance and Review seeking a variance or, in the alternative, a permit appeal. Because variances and permit appeals require different types of proof, such an alternative request is not appropriate within the same proceeding. The Board, therefore, construes the Petition as a variance petition solely and orders that the matter be set for hearing. The Board also grants the Request to Appear filed by attorneys for Beker.

Should Beker still want to pursue a permit appeal, it may file a petition for permit review as a separate proceeding. Although Procedural Rule 502(b) requires that an NPDES permit appeal be filed within 30 days of the Agency's final decision, the Board will consider a permit appeal filed within 30 days of the date of this Order to be timely filed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 18<sup>th</sup> day of January, 1979 by a vote of 4-0.

  
  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board