

ILLINOIS POLLUTION CONTROL BOARD

November 1, 1973

OLIN CORPORATION, )  
a Corporation, )  
 )  
Petitioner, )  
 )  
v. ) PCB 73-421  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by Mr. Henss)

Olin Corporation filed a variance petition on October 3, 1973 which was adjudged inadequate by the Board Order of October 11, 1973. The Order stated:

"The specific rules from which variance is sought are not listed nor is any description given as to the injury the grant of the variance would impose on the public."

Petitioner was granted 20 days to supply the missing allegations.

Petitioner filed an amendment within the 20 days but the new pleading is also inadequate. Petitioner apparently does not wish to allege facts. He prefers that we take "official notice" pursuant to Board Rule 321 of the Regulations from which Petitioner desires variance and of the effect of the Petitioner's emissions on the public. It is clear from Title IX of the Environmental Protection Act (variances) that the burden is upon Petitioner to point out the Rule or Regulation from which he requests variance. The Act specifically refers to "a petition for a variance from a Rule or Regulation". The Act states that the burden of proof is upon Petitioner to prove that compliance with a Rule or Regulation will impose an arbitrary or unreasonable hardship. We understand Petitioner's desire to shift the burden to us but we do not accept it.

Petitioner has not complied with the Act or the Order of the Board and we have no alternative at this point but dismissal.

The Variance Petition is dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 13<sup>th</sup> day of November, 1973 by a vote of 5 to 0.

Christan L. Moffett