

national ambient air quality standards. The Court said:

"The Act gives the Agency no authority to question the wisdom of a state's choices of emission limitations if they are part of a plan which satisfies the standards of Section 110(a)(2), and the Agency may devise and promulgate a specific plan of its own only if a state fails to submit an implementation plan which satisfies those standards. Sec. 110(c). Thus, so long as the ultimate effect of a state's choice of emission limitations is compliance with the national standards for ambient air, the state is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation".

The Court's ruling technically upholds only the specific Georgia provision at issue, which would permit the State of Georgia to grant such variances before July 1, 1975, the date Georgia is required to attain the ambient air standards. However the Supreme Court said:

"The Agency is candid in admitting that should we base our decision on its interpretation of Section 110(a)(3), the decision would support the approval of implementation plans which provide for variances effective after the attainment date."

Illinois is required to attain the ambient air standards by July 31, 1975, but the Illinois Implementation Plan provides for the grant of variances in accordance with the provisions of the Illinois Environmental Protection Act. Therefore, this Board can grant individual variances beyond July 31, 1975 if the variances do not interfere with the attainment and subsequent maintenance of national ambient air quality standards.

The record in the instant case is not sufficient for the allowance of Texaco's variance petition. There are no data bearing on the quality of the ambient air which is affected by Petitioner's emissions; there is no statement or testimony in the record indicating whether the grant of the variances would interfere with attainment or maintenance of national ambient air quality standards. Therefore, the Board must dismiss the petition without prejudice.


If Texaco chooses to submit a new petition for variance such petition must address the air quality issue as the Board will be interested in determining whether the variance is allowable under the recent U. S. Supreme Court decision.

This Opinion constitutes the findings of fact and conclusions of law of the Illinois Pollution Control Board.

ORDER

It is ordered that the variance petition of Texaco, Inc. be dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of May, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board