

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 73-330
)
 OZITE CORPORATION, a Delaware)
 corporation,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Henss):

On May 13, 1975 Ozite Corporation filed "Petition and Status Report". The Petition states that Ozite has appealed our Order of May 23, 1974 to the Appellate Court of the State of Illinois, but that during the pendency of the appeal Ozite applied for operating permits. The Environmental Protection Agency rejected the application for operating permit for the reason that Ozite had not shown compliance with the Board Order of May 23, 1974. The letter of rejection states that the application for an operating permit "is not deemed as having been filed."

Ozite now requests that the Board: a) find that Ozite Corporation is in compliance with odor control regulations based on the evidence submitted with the petition, or in the alternative set a hearing date for the taking of evidence regarding Ozite's compliance with odor control regulations and the Board Order of May 23, 1974; b) enter an Order directing the EPA to accept the application for permit and consider it on its merits.

In support of the petition Ozite offers to prove what steps it has taken since May 23, 1974 to comply with the Board Order.


We deny the petition on procedural grounds. The issues here are essentially those which are found in a permit proceeding and are to be resolved in the first instance by the Environmental Protection Agency. It would be improper to by-pass the permit procedure. Our jurisdiction in this pending enforcement case

is now limited to those things necessary to the conduct of the appeal of our May 23, 1974 Order.

Ozite should make its contentions and its proof in an application for permit before the Environmental Protection Agency. The ruling of the Agency upon its consideration of that application (or its decision not to consider the application) is subject to review by this Board pursuant to well established procedures.

The petition of Ozite Corporation filed with the Pollution Control Board on May 13, 1975 is denied without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted the 6th day of June, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board