

ILLINOIS POLLUTION CONTROL BOARD

March 26, 1975

| | | |
|----------------------------------|---|-----------|
| NABISCO, INC. |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 75-17 |
| |) | |
| ENVIRONMENTAL PROTECTION AGENCY, |) | |
| Respondent. |) | |

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On January 14, 1975, Nabisco, Inc., filed a Petition For Variance with the Illinois Pollution Control Board (Board). Petitioner sought a one year variance from May 30, 1975, from the emission standards under Rule 203(g)(1)(B) of the Air Pollution Regulations in order to operate its No. 3 boiler during the winter of 1975-76 should its use be necessary. While Petitioner believed the boiler's operation would be unnecessary, Nabisco was unable "to forecast with absolute certainty that No. 3 will not be needed for limited use."

The Illinois Environmental Protection Agency (Agency) filed its Recommendation on March 5, 1975, and recommended that the variance be denied, or in the alternative, the Petition be dismissed, because it is not ripe for Board action in the light of the speculative nature of the boiler's use.

We agree with that Agency's alternative recommendation. While we realize that Petitioner is attempting to avoid the pitfall of "unexcused delay" in filing its Petition, we believe that the problem is presently too hypothetical and remote for Board decision. Should Petitioner's need to operate boiler No. 3 become more definite in the winter months of 1975-76, a petition can be filed at that time. Petition For Variance is dismissed without prejudice, because it is not ripe for Board action.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 26th day of March, 1975, by a vote of 4 to 0.

Christan L. Moffett
Christan L. Moffett