

ILLINOIS POLLUTION CONTROL BOARD
January 16, 1973

LAWRENCE WEINSTEIN, et al)	
)	
)	#72-366
v.)	
)	
ENVIRONMENTAL PROTECTION AGENCY)	
COMMONWEALTH EDISON COMPANY)	
(WILL COUNTY AND POWERTON)	
STATIONS))	#72-295
)	
v.)	
)	
ENVIRONMENTAL PROTECTION AGENCY)	
OLIN CORPORATION)	
)	
)	#72-299
v.)	
)	
ENVIRONMENTAL PROTECTION AGENCY)	
LAKE FOREST SAVINGS & LOAN)	
ASSOCIATION)	
)	#72-402
v.)	
)	
ENVIRONMENTAL PROTECTION AGENCY)	

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Petitions for variance were filed by the above-captioned petitioners, as follows:

1. Lawrence Weinstein, et al; date filed: September 1, 1972; waiver of decision to December 19, 1972 was filed;
2. Commonwealth Edison Company; date filed: July 14, 1972; waiver of decision was filed successively to December 11, 1972, December 15, 1972 and December 31, 1972;
3. Olin Corporation; date filed: July 19, 1972; waiver of decision was filed successively to December 16, 1972 and January 9, 1973;
4. Lake Forest Savings & Loan Association; date filed: October 11, 1972; 90-day period in which decision must be rendered ended January 9, 1973.

On December 1, 1972, David P. Currie, Chairman of the Pollution Control Board, resigned as a member and Chairman of the Board. On December 17, 1972, the Illinois Senate declined to confirm the appointments of Board members, John L. Parker and Donald A. Henss, resulting in an absence of a Board quorum until January 11, 1973 when Donald A. Henss was appointed to the Board by Governor Walker.

On December 17, 1972, none of the foregoing variance petitions had been decided by the Board and the absence of a quorum precluded the entry of any orders with respect thereto until this date, being the first Board meeting subsequent to the new appointment of Donald A. Henss.

Section 38 of the Environmental Protection Act provides as follows:

"If the Board fails to take final action upon a variance request within 90 days after the filing of the petition, the petitioner may deem the request granted under this Act..."

In all of the above-captioned cases, the 90-day period or the extended period granted by waiver in which a decision must be rendered had expired prior to today's meeting. Accordingly, by virtue of the provisions of Section 38 of the Environmental Protection Act, we must conclude that variance in each case, respectively, has been granted by operation of law.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was entered on the 16th day of January, 1973, by a vote of 3 to 0.

Christan P. Moffett