

ILLINOIS POLLUTION CONTROL BOARD
June 13, 1975

KING-SEELEY CO., THERMOS)
DIVISION,)
Petitioner,)
)
v.) PCB 75-159
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

ORDER OF THE BOARD (by Mr. Zeitlin):

The Petition in this matter was filed on April 15, 1975, seeking extension of a Variance previously granted in King-Seeley Co., Thermos Division v. EPA, PCB 74-107, 12 PCB 397 (1974). On April 24, 1975, the Board entered an Interim Order requiring further information, finding the Petition in this matter inadequate under the recent U.S. Supreme Court decision of Train v. N.R.D.C., 43 U.S.L.W. 4467 (U.S. April 16, 1975). The Board in that Interim Order gave Petitioner 45 days to correct the deficiencies noted, stating that failure to file an Amended Petition would render the Petition subject to dismissal for inadequacy.

The 45 day period granted by the Board's April 24, 1975 Interim Order has now passed, and no further information or Amended Petition has been filed before the Board. The deficiencies noted in that Interim Order are therefore still present. In the face of those deficiencies, the Board is not empowered to grant the relief sought by Petitioner.

It should also be noted that subsequent to the entry of our Interim Order, on April 28, 1975, the Environmental Protection Agency filed a Motion to Dismiss, on which the Board deferred action pending the filing of, or failure to file, an Amended Petition. Insofar as we are dismissing this Petition for inadequacy, we need not address that motion or its substance.

The Petition for Extension of Variance in this matter must be dismissed without prejudice, for inadequacy, and for failure to comply with the Board's Interim Order of April 24, 1975.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 13th day of June, 1975 by a vote of 50.


Christan L. Moffett, Clerk
Illinois Pollution Control Board